

**ALABAMA LAWS**  
(and Joint Resolutions)  
**OF THE**  
**LEGISLATURE OF ALABAMA**  
**PASSED AT THE**  
**REGULAR SESSION 1980**

**VOL. II**



**FOB JAMES, Governor**  
**GEORGE D. H. McMILLAN, Lieutenant Governor**  
**FINIS ST. JOHN, President Pro-Tem of the Senate**  
**JOE C. McCORQUODALE, JR., Speaker of the House**  
**RICHARD S. MANLEY, Speaker Pro-Tem of the House**  
**McDOWELL LEE, Secretary of the Senate**  
**JOHN W. PEMBERTON, Clerk of the House**

---

**WITH AN INDEX PREPARED BY THE**  
**LEGISLATIVE REFERENCE SERVICE**

---

The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1980 Regular Session of the Legislature of Alabama and is the official publication of such acts.

**Don Siegelman**  
Secretary of State

**SKINNER PRINTING COMPANY**

**3221 THOMASON AVENUE**

**MONTGOMERY, ALABAMA**



Act No. 80-470

S.J.R. 198—Miller

## SENATE JOINT RESOLUTION

COMMENDING WSFA-TELEVISION IN MONTGOMERY  
AND MR. DIXON LOVVORN.

WHEREAS, television station WSFA, Channel 12 in Montgomery, Alabama, has for more than 25 years provided the ultimate in television programming to the people of Montgomery, Central and South Alabama; and

WHEREAS, WSFA-Television, during this quarter century period, has established and maintained a news staff of the highest professional calibre, covering the activities of the Alabama Legislature and the State Capitol with fairness, intensity, dedication, and journalistic integrity; and

WHEREAS, WSFA-Television, for the past two years, has been directed by vice president and general manager, Dixon Lovvorn, one of the most professional and distinguished broadcasters in America; and

WHEREAS, the aforementioned Mr. Dixon Lovvorn has recently been promoted to the position of vice president and general manager of Cosmos Broadcasting Corporation's flagship station, WDSU-Channel 6, New Orleans, Louisiana; and

WHEREAS, this promotion further and strongly underscores recognition of Mr. Lovvorn's superior ability and extraordinary flair for excellence in his field; and

WHEREAS, Mr. Lovvorn's successor as vice president and general manager of WSFA-TV is Mr. Charles (Chuck) Whitehurst, who brings to Montgomery a truly impressive background in television news and management; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily commend Mr. Dixon Lovvorn for his outstanding accomplishments with WSFA-Television in Montgomery; we further congratulate him on his recent promotion and concurrently welcome Mr. Whitehurst to Alabama's capital city.

BE IT FURTHER RESOLVED, That a copy of this resolution, evidencing our regard, be sent to Mr. Lovvorn with a copy also provided for WSFA-Television and for Mr. Charles Whitehurst, vice president and general manager.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-471

S.J.R. 199—Miller

## SENATE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. JAKE B. PURVIS  
ON THE OCCASION OF THEIR GOLDEN WEDDING  
ANNIVERSARY.

WHEREAS, the Legislature of Alabama has noted with extreme pleasure the 50th Wedding Anniversary, on June 5, 1980, of Mr. and Mrs. Jake B. Purvis of Geneva, Alabama; and

WHEREAS, Jake B. Purvis, a native of Geneva, and Merle Wallace of Clio, were joined in holy matrimony in Clayton, Alabama, on June 5, 1930, and have remained in said holy state for one-half century; and

WHEREAS, they have lived their lives as one, devoted to one another, and have remained steadfastly faithful to their marriage vows, setting an enviable example for others to follow; and

WHEREAS, Mr. and Mrs. Purvis are the parents of two sons, Jake Wallace and Edwin Jackson Purvis, and a daughter, Rachel Merle Purvis Shipp; they also have eleven fine grandchildren and a beautiful little great granddaughter; and

WHEREAS, Mr. Purvis, a former Geneva City Councilman and Mayor, currently is executive vice president of the Citizens bank of Geneva, and Mrs. Purvis is a retired educator; they both have long been active in civic affairs, prominently and deeply involved in service to their community and to all its citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with their family and friends in congratulating this exemplary couple of Geneva, Alabama, and wish them many more happy years together.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for Mr. and Mrs. Purvis that they may be aware of our congratulations and warm best wishes on this memorable occasion.

Approved May 19, 1980

Time: 5:00 P.M.

## SENATE JOINT RESOLUTION

## COMMENDING THE RIFLE AND DRILL TEAMS OF ENTERPRISE HIGH SCHOOL.

WHEREAS, it is with deep pride and pleasure that the Alabama Legislature commends the Rifle and Drill Teams of Enterprise High School for top honors received in Southern Regional competition; and

WHEREAS, the Enterprise High School Rifle Team once, again, and for the second consecutive year, was awarded the rotating trophy from the Holiday in Dixie Invitational Meet, competing with teams from five Southern states; and

WHEREAS, trophies won by this outstanding Alabama JROTC Rifle Team were for both high team standing and kneeling scores with four individual trophies awarded, as well, to members Gary Shoap, Jon Ward, Tom Merideth and Cary Ann Howell, who placed third, fourth, seventh and eighth respectively, among the top ten shooters; and

WHEREAS, the Enterprise High School drill teams also distinguished themselves in competition with 37 male and female teams from the five-state area; the Belles of Blue Knights, under command of Cadet Lieutenant Colonel Shelly Henderson and Executive Officer, Cadet Major Laura Baade, scored 576 of a possible 600 points to win two first place trophies in fancy drill and inspection to claim the top award for the second straight year; and

WHEREAS, the Blue Knights, scoring 582.4 out of 600, took second place in precision drill and its commander, Cadet Lieutenant Colonel Craig Rogers, won fifth in individual competition scoring 93 out of a possible 100; the Blue Knights executive officer is Cadet Major Durwood Wilson; and

WHEREAS, further, the Enterprise Orienteering team, though newly organized, placed eighth among 23 teams in this sport of stamina, map reading and decision making; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we both highly commend and heartily congratulate the champion Rifle and Drill Teams of Enterprise High School and direct that each team receive a copy of this resolution with a copy also provided for appropriate school display.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-473

S.J.R. 203—Miller

## SENATE JOINT RESOLUTION

COMMENDING MRS. ALICE RHODES, IMMEDIATE PAST PRESIDENT OF THE ALABAMA FEDERATION OF WOMEN'S CLUBS.

WHEREAS, Mrs. Alice Rhodes of Enterprise, Alabama, has just recently completed a two-year term as President of the Alabama Federation of Women's Clubs, an organization of 224 clubs with a total of more than 8,500 members; and

WHEREAS, a housewife and mother, a teacher by profession and one of her city's most prominent civic leaders, Mrs. Rhodes' talents and effective efforts resulted in a prestigious tenure during which time she traveled more than 28,000 miles, both within and without the State of Alabama, promoting projects and activities related to the Free Enterprise program of the AFWC; and

WHEREAS, youth services, scholarship programs, work with CARE, community projects and charitable endeavors, are some of the many other areas in which member organizations of the AFWC were involved and in which areas state leadership was outstandingly provided by Mrs. Rhodes; and

WHEREAS, additionally, three special Junior projects—March of Dimes, Action for Children and Alabama Association for Retarded Citizens—were conducted with tremendous success during Mrs. Rhodes' presidency, as was the Industries for the Blind sales which totalled in excess of \$68,000; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Mrs. Alice Rhodes of Enterprise, Alabama, and offer our sincere congratulations on the success and effectiveness of her presidency of the Alabama Federation of Women's Clubs.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mrs. Rhodes that she may be aware of our warm praise and of our deep appreciation for her outstanding accomplishments.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-474

S.J.R. 205—Miller

## SENATE JOINT RESOLUTION

**HONORING MRS. LYNN JETER UPON EXPIRATION OF  
HER TERM OF SERVICE ON THE ENTERPRISE CITY  
BOARD OF EDUCATION.**

WHEREAS, the Alabama Legislature joins with the City of Enterprise, Alabama, in paying tribute to Mrs. Lynn Jeter upon completion of her prestigious term of service on the Enterprise Board of Education, a term historic in significance as she was not only the first woman ever to be appointed to the Board but also was the first woman to serve as president; and

WHEREAS, at a dinner recently held in Mrs. Jeter's honor, she was presented a plaque by the Enterprise Education Association, the Distinguished Service Award from the City of Enterprise and a plaque in appreciation of service from the city's school system; and

WHEREAS, Mrs. Jeter's dedicated service has been responsible in large part for many of the school system's accomplishments during the past five years, perhaps most notably in the areas of school bus transportation, capital improvements and instructional programs; and

WHEREAS, throughout her five year tenure on the board, Mrs. Jeter has first and foremost accorded priority, in all decisions, to the welfare and well-being of the school children of Enterprise; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF  
ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we most highly commend Mrs. Lynn Jeter of Enterprise, Alabama, not only as that city's first woman school board member and first woman president, but also for her outstanding accomplishments in the interest of quality education for the youth of our state.

**BE IT FURTHER RESOLVED,** That Mrs. Jeter receive a copy of this resolution in token of our deep appreciation and high regard.

Approved May 19, 1980

Time: 5:00 P.M.

Harrison, Higginbotham,  
 Holmes, Keener, Kirkland,  
 Lemaster, Little, McDonald,  
 Martin, Miller, Mitchem,  
 Parsons, Pearson, Proctor,  
 Robertson, Smith, St. John,  
 Taylor, Teague, Vacca, Weeks  
 and White

## SENATE JOINT RESOLUTION

HONORING COMMISSIONER H. H. SUMRALL, JR., FOR  
 EXTRAORDINARY SERVICE TO THE STATE OF  
 ALABAMA.

WHEREAS, it is with deep regret that the Alabama Legislature notes the resignation of Alabama Insurance Commissioner H. H. Sumrall, Jr., to re-enter private enterprise, an area in which he early achieved significant success and prominence among his peers; and

WHEREAS, a native of Laurel, Mississippi, a United States Marine Corps veteran and a graduate of Auburn University, Hal Sumrall interrupted a rapidly advancing business career to work closely with his long-time friend, Governor Fob James, who through personal knowledge was well aware of Mr. Sumrall's innate ability and talent for administrative excellence; and

WHEREAS, appointed Commissioner of Insurance for the State of Alabama on August 22, 1979, Hal Sumrall has since that time remarkably and rapidly reorganized the department into an efficient and highly reputable vehicle of industry regulation; he further has worked closely in consultation with the Commissioner's Advisory Board to effectuate liaison between the department and that membership of Alabama's responsible insurance community; and

WHEREAS, Commissioner Sumrall, during his productive tenure, has also earned national regard among the commissioners of other state departments of insurance for his role as administrator and insurance regulator for the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend the Honorable H. H. Sumrall, Jr., for distinguished service to the State of Alabama and wish him every continued success in all future endeavors.

BE IT FURTHER RESOLVED, That Mr. Sumrall receive a

copy of this resolution, tendered in appreciation and praise, and as evidence of our high regard.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-476

S.J.R. 210—Miller and Denton

SENATE JOINT RESOLUTION

CONGRATULATING MISS ELIZABETH LESTER ON HER SELECTION AS "MISS NORTH ALABAMA."

WHEREAS, the Alabama Legislature notes in pleased concurrence the selection of Miss Elizabeth Lester as "Miss North Alabama" at the pageant held April 19, 1980, in Florence, Alabama; and

WHEREAS, Miss Lester of Enterprise, Alabama, and a junior at Birmingham Southern College majoring in piano performance, is a young lady who is as talented as she is lovely; she recently was the recipient of the Snively Talent Scholarship award which is presented annually to a Southern student with outstanding talent; and

WHEREAS, it is to be noted that last year Miss Lester represented Southeast Alabama in the Miss Alabama Pageant and was selected as a preliminary swimsuit winner and as one of the top ten finalists; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate Miss Elizabeth Lester of Enterprise with warm best wishes for success in upcoming competition for the Title of Miss Alabama; we further direct that Miss Lester receive a copy of this resolution in token of our sincere praise and in appreciation of her extraordinary beauty and talent.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-477

H. 293—Sasser, Gafford, Biddle,  
McCorquodale, Manley,  
McMillan, Owens, Kelley

AN ACT

To further amend Section 2, Act No. 100, Second Special Session 1959, as amended, (Section 40-23-2, Code of Alabama 1975 as amended) in order to impose a sales tax of one and one-half percent (1½%) upon the purchase price of any automotive vehicle, truck trailer, boat, boat motor, boat trailer, semitrailer or house trailer; to require that the tax imposed be paid by the purchaser to the Judge of Probate of the County in which the vehicle is to be licensed; and to require the Judge of Probate to remit the tax collected to the Department of Revenue.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2, Act No. 100, Second Special Session 1959, as heretofore amended (Section 40-23-2, Code of Alabama 1975 as amended), is hereby amended further to read as follows:

“Section 2. There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, (except the tax levied upon the sale of automotive vehicles, boats, boat motors, boat trailers, truck trailers, semitrailers, or house trailers which shall be imposed and collected as provided in Subsection (d) hereof) as follows:

“(a) Upon every person, firm or corporation, (including the State of Alabama and its Alcoholic Beverage Control Board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, any association or other agency or instrumentality of such institutions) engaged or continuing within this state, in business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debts or stocks, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships and other watercraft of over fifty tons burden), an amount equal to four percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business.

“Where any used part of an automotive vehicle, boat, boat motor, boat trailer, or a truck trailer, semitrailer or house trailer is



taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part, the tax levied herein shall be paid on the net difference, that is, the price of the new or used part sold less the credit for the used part taken in trade, provided, however, this provision shall not be construed to include tires or batteries.

“(b) Upon every person, firm or corporation engaged or continuing within this state in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contest, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games, (including athletic contests, conducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, or county, or a municipal institution or association or a state, county, or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the State of Alabama, an amount equal to four percent of the gross receipts of any such business.

“(c) Upon every person, firm or corporation engaged or continuing within this state in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property an amount equal to one and one-half percent of the gross proceeds of the sale of such machines; provided, that the term “machines,” as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“(d) Commencing on and after October 1, 1980, upon every person, firm or corporation purchasing, other than by wholesale sale, any automotive vehicle, boat, boat motor, boat trailer, truck trailer, semitrailer or house trailer, an amount equal to one and one-half percent of the gross proceeds of sale of said automotive vehicle, boat, boat motor, boat trailer, truck trailer, semitrailer, or house trailer. Where any used automotive vehicle, boat, boat motor, boat trailer, truck trailer, semitrailer or house trailer is taken in trade

or in a series of trades as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade. In the event of a withdrawal of an automotive vehicle, boat, boat motor, boat trailer, truck trailer, semitrailer or house trailer from the stock in trade of a person for use by such person or by his employee or agent in the operation of his business, there shall be paid by such person to the Judge of Probate, in lieu of the tax levied herein, a fee of five dollars per year or part thereof during which such automotive vehicle, boat, boat motor, boat trailer, truck trailer, semitrailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the twelve succeeding months or part thereof during which such automotive vehicle, boat, boat motor, boat trailer, truck trailer, semitrailer or house trailer shall remain the property of such person.

"The tax levied herein shall be paid by the purchaser to the Judge of Probate of the County in which the vehicle is or will be licensed and shall be remitted by the Judge of Probate to the Department of Revenue. No license plate may be issued or transferred for use on the vehicle nor registration issued except upon payment to the Judge of Probate of the tax levied hereby and upon presentment to the Judge of Probate of a sworn report reflecting the sales price of the vehicle accompanied by a properly executed bill of sale or other evidence reflecting the sale of the vehicle. The tax levied hereby shall be in lieu of any other taxes imposed by this Act upon the sale at retail of any automotive vehicle, boat, boat motor, boat trailer, truck trailer, semitrailer or house trailer. All revenue collected by the Department of Revenue from the new tax sources created by Act \_\_\_\_\_, H. 293, 1980 Regular Session, shall be deposited into the general fund of the state of Alabama after the cost of collection has been deducted. All revenue collected by Section 40-23-2 (d) from tax sources created prior to 1980 shall continue to be allocated in the same manner as past years.

"(e) Upon every person, firm or corporation engaged or continuing within this state in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to three percent (3%) of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business."

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This Act shall become effective on the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 4:00 P.M.

Act No. 80-478

H. 523—Turner

### AN ACT

To raise revenue; to levy an additional tax on the sale of spirituous or vinous liquors sold by the Alabama Alcoholic Beverage Control Board, the said tax to be measured by the selling price of such liquors, exclusive of taxes heretofore levied with respect thereto; to provide that the said selling price shall not be reduced for the purpose of absorbing the tax herein levied but that said tax shall be passed on to the purchaser; and to provide for disposition and use of the proceeds from said tax.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Definitions. The word "Board," wherever used in this Act, shall mean the Alabama Alcoholic Beverage Control Board provided for in Chapter 3 of Title 28 of the Code of Alabama 1975. The term "selling price," wherever used in this Act shall mean the total marked-up price of spirituous or vinous liquors sold by the Board, exclusive of the taxes heretofore levied with respect thereto.

**Section 2.** Levy to Tax. In addition to all other taxes of every kind now imposed by law, and in addition to any marked-up price authorized or required by law, there is hereby levied and shall be collected a tax at the rate of ten percent (10%) upon the selling price of all spirituous or vinous liquors sold by the Board. The tax hereby imposed shall be collected by the Board from the purchaser at the time the purchase price is paid.

**Section 3.** Tax not to be absorbed but passed on to purchaser. The mark-up as currently established by the Board on spirituous or vinous liquors shall not be reduced by the Board for the purpose of absorbing the tax herein levied; it being the intention hereof that the said tax shall be passed on to the purchaser.

**Section 4.** All revenues collected under the provisions of this Act shall be paid into the state treasury to the credit of the general

fund.

**Section 5.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with the provisions of this Act are hereby expressly repealed.

**Section 7.** This Act shall become effective on the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 4:00 P.M.

---

Act No. 80-479

H. 534—Owens

### AN ACT

To make appropriations for the support and maintenance of the Marion Military Institute.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That there is hereby appropriated for the fiscal year ending September 30, 1981, the sum of Three Hundred Twenty Five Thousand Dollars (\$325,000), out of the funds in the Alabama Special Educational Trust Fund, to the Marion Military Institute at Marion, Alabama, to be used for the support and maintenance of said school.

**Section 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**Section 3.** This Act shall become effective October 1, 1980.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-480

H. 535—Owens

## AN ACT

To make appropriations for the support and maintenance of the Lyman Ward Military Academy.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That there is hereby appropriated for the fiscal year ending September 30, 1981, the sum of One Hundred Twenty Five Thousand Dollars (\$125,000), from the funds in the Alabama Special Educational Trust Fund, to the Lyman Ward Military Academy located in Camp Hill, Alabama, to be used for the support and maintenance of said school.

**Section 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year, before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**Section 3.** This Act shall become effective October 1, 1980.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-481

H. 536—Owens

## AN ACT

To make appropriations for the support and maintenance of the Talladega College.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That there is hereby appropriated for the fiscal year ending September 30, 1981, the sum of Three Hundred Thousand Dollars (\$300,000), out of the funds in the Alabama Special Educational Trust Fund, to the Talladega College located in Talladega, Alabama, to be used for the support and maintenance of said school.

**Section 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said

institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursement, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**Section 3.** This Act shall become effective October 1, 1980.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-482

H. 537—Owens

### AN ACT

To make appropriations for the support and maintenance of the Walker County Junior College.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That there is hereby appropriated for the fiscal year ending September 30, 1981, the sum of Four Hundred Thousand Dollars (\$400,000), out of the funds in the Alabama Special Educational Trust Fund, to the Walker County Junior College located at Jasper, Alabama, to be used for the support and maintenance of said school.

**Section 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year, before any subsequent appropriation requests may be considered by the Legislature, a full accounting for its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**Section 3.** This Act shall become effective October 1, 1980.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-483

H. 538—Owens, Reed

### AN ACT

To make appropriations for the support and maintenance of the Tuskegee Institute.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That there is hereby appropriated for the fiscal year ending September 30, 1981, the sum of One Million Four Hundred Sixty Thousand Dollars (\$1,460,000), out of the funds in the Alabama Special Educational Trust Fund, to the Tuskegee Institute located at Tuskegee, Alabama, to be used for the support and maintenance of said school.

**Section 2.** The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as it audits of the public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

**Section 3.** This Act shall become effective October 1, 1980.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-484

H. 815—Owens

### AN ACT

To make further appropriations of State Funds for the fiscal year ending September 30, 1980.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to all other appropriations heretofore or hereafter made from the State General Fund there is hereby appropriated from said fund for the fiscal year ending September 30, 1980 the following:

For transfer to the State Board of Corrections:	
For Operations and Maintenance	9,000,000
For State Treasurer:	
For Operations and Maintenance	75,000
For Alabama Development Office	600,000
For Medical Services Administration—	
Medicaid Program:	
For Operations and Maintenance	15,000,000

For Department of Mental Health:	
For Operations and Maintenance	6,200,000
For Department of Civil Defense:	
For 50% Fund Matching	178,000
For State Board of Corrections to the counties:	
For care of State prisoners	2,500,000

The above appropriations in Section 1 shall be conditional upon the condition of the General Fund and upon approval of the Governor.

**Section 2.** In addition to all appropriations heretofore or hereafter made from Alabama State Bar Association Fund there is hereby appropriated from said fund for the fiscal year ending September 30, 1980 the following:

For the Alabama State Bar Association:	
For Operations and Maintenance	50,000

**Section 3.** In addition to all appropriations heretofore or hereafter made from Alabama Liquified Petroleum Gas Board Fund there is hereby appropriated from said fund for the fiscal year ending September 30, 1980 the following:

For Alabama Liquified Petroleum Gas Board:	
For Operations and Maintenance	12,000

**Section 4.** There is hereby appropriated to a Revolving Fund within the Department of Finance, known as the Air Transportation Revolving Fund, such funds that are received from various agencies, through interagency agreement, for the use of air transportation services. The aforesaid funds are to be deposited and expended from time to time as approved by the Governor.

**Section 5.** Of the funds conditionally appropriated by this Act that the funds appropriated for Medical Services Administration shall be paid prior to any other appropriations.

**Section 6.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.



Act No. 80-485

H. 859—Smith (J)

## AN ACT

Relating to the Twenty-third Judicial Circuit consisting of Madison County; to provide for the parking of jurors and to provide for the assessment, collection and use of additional taxes as court costs and to further provide for the distribution of such taxes to defray the expense of juror and criminal witness parking.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The governing body of Madison County by resolution thereof shall have the power to maintain and provide parking for the use of the jurors; and shall have the power to appropriate such funds as are necessary and appropriate for such purpose. All resolutions providing parking for jurors shall be filed in the Probate Office of Madison County and with the Administrative Director of Courts.

**Section 2.** Upon the adoption of a resolution providing the parking described in this Act, Madison County shall establish and maintain a separate fund known as the Madison County Juror Parking Fund. The county juror parking funds shall consist of funds appropriated by the state, county, or municipal governments, funds collected under provisions of law, or received from donations, gifts, grants, and funds other than those appropriated, and shall be audited as county funds are audited. Said funds may be used to match grants for providing parking described in this Act.

**Section 3.** For the support and maintenance of juror parking established under the provisions of this Act, a parking fee of Two and no/100 Dollars (\$2.00) shall be paid in all criminal cases in the district and circuit courts of Madison County to be collected as other court costs are collected and paid at the same time as docket fees, fines, or other court costs. The parking fee described in this Act shall be paid in all criminal cases in each court in Madison County. All funds collected under the provisions of this section shall be transmitted to the Madison County Juror Parking Fund by the tenth (10th) of each month following their collection.

**Section 4.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** The provisions of this Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-486

H. 911—Smith (J)

## AN ACT

To amend Act No. 1862, H. 2686, Regular Session 1971 (Acts, p. 3024), relating to all counties having population of not less than 175,000 nor more than 300,000, so as to authorize the Director of the County License Department created thereunder to charge and collect a fee not to exceed \$1.00 for each motor vehicle license tag issued by mail in addition to all other fees prescribed by law; and repealing conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 11 of Act No. 1862, H. 2686, Regular Session 1971 (Acts, p. 3024) is hereby amended to read as follows:

“Section 11. All applications for motor vehicle tags by mail and the correct amount of taxes and fees shall be received by the director of the department on or before November 10th preceding the November 15th on which the motor vehicle license tag is due and payable, and the director of the department shall mail such tag on or before November 14th preceding such November 15th. The director of the department shall charge and collect a fee not to exceed one dollar (\$1.00) for each motor vehicle license tag issued by mail, in addition, to all other fees prescribed by law. Such additional fee shall be paid by the owner of the motor vehicle with his mailed request for license tags, and such fees collected by the director of the department shall be paid into the general fund of the county. The actual expense of mailing application forms to the owners of motor vehicles and of mailing tags are hereinabove provided shall be paid from the general fund of the county upon proper warrant signed by the director of the department and approved by the county governing body as provided by law. All the forms necessary in the administration of this Act shall be furnished by the state department of revenue.”

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

## AN ACT

To authorize the Russell County Commission to levy a privilege or license tax on persons, corporations, co-partnerships, companies, agencies and associations selling, distributing, or delivering any malt or brewed beverages to retailers in Russell County except within the city limits of Phenix City and Hurtsboro and two cents in the Phenix City police jurisdiction, to authorize the county commission to collect the tax and to effect distribution thereof to Russell County to be used for the county school system and the county general fund; to authorize the county commission to make rules and regulations to govern enforcement and collection of the tax; and to provide for the use of the proceeds derived from the tax.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Russell County Commission may levy a privilege or license tax on all persons, corporations, copartnerships, companies, agencies and associations selling, distributing, or delivering to retailers in Russell County, except within the city limits of Phenix City and Hurtsboro and two cents within the police jurisdiction of Phenix City any malt or brewed beverages, (including beer, lager beer, ale, porter, or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume) which tax shall be in an amount equal to not more than four cents on each twelve fluid ounces or fractional part thereof, delivered or distributed to retailers located in the county. The privilege or license tax herein authorized shall be in addition to all other taxes and licenses now or hereafter authorized or imposed by law.

**Section 2.** The privilege or license tax authorized by this Act shall be collected by, or under the supervision of, the county commission which shall deposit the net proceeds of the tax, the term net being that portion remaining after payment of expenses incurred as provided for herein, into the general fund of said County, to be used equally for the county school system and the county general fund.

**Section 3.** The county commission may provide rules and regulations and administrative machinery for the enforcement and collection of the privilege or license tax authorized by this Act, and may also provide reasonable compensation to sellers and distributors of malt or brewed beverages for the expense of compliance with such rules and regulations. The county commission may employ such personnel as may be needed to collect and enforce the tax, and shall fix their compensation and tenure.

**Section 4.** Any person, firm, or corporation who violates any provision of this Act or the rules and regulations as may be provided by the county commission shall be guilty of a misdemeanor and

upon conviction shall be punished as prescribed by law. Each month such violation continues shall constitute a separate offense.

**Section 5.** Any person, firm, or corporation who fails to pay the tax herein levied within the time prescribed by this Act shall pay, in addition to the tax, a penalty of ten percent of the amount of tax, together with interest thereon at the rate of one-half of one percent per month or fraction thereof, from the date at which the tax herein levied became payable, such penalty and interest to be assessed and collected as a part of the tax.

**Section 6.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this Act are repealed.

**Section 8.** This Act shall become effective on the first day of the first month immediately after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-488

H. 988—Smith (J)

### AN ACT

To Amend Act Number 940, H. 1956, 1973 Regular Session (1973 Acts, p. 1445) entitled "An Act Relating to Madison County and the Twenty-third Judicial Circuit; pertaining to Solicitor's or District Attorney's Fund" so as to further regulate the distribution of such fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act No. 940, H. 1956, 1973 Regular Session (1973 Acts, p. 1445), is hereby amended to read as follows: "An Act Relating to Madison County and the Twenty-third Judicial Circuit; pertaining to the District Attorney's Fund."

*Be It Enacted by the Legislature of Alabama:*

"Section 1. All district attorney's fees taxed as costs and collected in all criminal cases in Madison County and the Twenty-third Judicial Circuit shall be paid unto the county treasury of Madison County and said funds shall be kept as a separate fund in the county treasury to be known as the District Attorney's Fund and shall be used and expended by the district attorney as

hereinafter provided. The payment of district attorney fees shall be made by the tenth (10th) day of each month following collection.

“Section 2. The district attorney is hereby authorized to requisition expenditures from the district attorney’s fund for the payment of any and all expenses to be incurred by him for law enforcement and in the discharge of the duties of his office, as he sees fit. The treasurer of the county shall pay out of said funds to the said district attorney upon requisition made to the treasurer by the district attorney.

“Section 3. The District Attorney of Madison County shall maintain records of all funds requisitioned and used for the purpose of either purchasing information from informants or obtaining evidence. These records shall remain confidential and shall not be subject to public inspection. Within 30 days after the end of each fiscal year, the District Attorney of Madison County shall prepare from these records a report to be delivered under seal to the Department of Examiners of Public Accounts; said report to contain the following information: the date of the expenditure; the case name and number (or the matter investigated, if no prosecution resulted); the purpose of the expenditure; and the amount of the expenditure. The Department of Examiners of Public Accounts shall review said report concerning said expenditures. However, said report shall not be made public by the Department of Examiners of Public Accounts and, in no event, shall the District Attorney of Madison County be compelled to reveal the identity of a confidential informer or source.

“Section 4. All laws or parts of laws which conflict with this Act are repealed.

“Section 5. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Relating to Chambers County; to authorize the county commission to impose a privilege or license tax upon the sale, use or consumption of malt or brewed beverages; to provide for the administration and enforcement of this act; and to provide for the rate and distribution of the proceeds of the tax.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Chambers County, the county commission is hereby authorized and empowered to impose, a privilege or license tax upon the sale, use or consumption, distribution, storing or withdrawing from storage of any malt or brewed beverages (including beer, lager, ale, porter, or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume). The tax shall be in an amount equal to four cents (\$.04) on each twelve (12) ounces or fractional part thereof of any malt or brewed beverage sold within the county.

**Section 2.** The privilege or license tax authorized by this act shall be collected by the county commission. The county commission may provide rules and regulations and administrative machinery for the enforcement and collection of the tax and may also provide reasonable compensation to sellers and distributors of malt or brewed beverages for the expenses of compliance with such rules and regulations. The governing body may employ such personnel as may be needed to collect and enforce the tax and shall fix the compensation and tenure of such personnel. The county commission shall have full discretion to provide or not provide for devices for affixing stamped impressions on lids and crowns, decals or other devices capable of being affixed to containers to be used in evidence of payment of tax.

**Section 3.** After the payment of all costs of collection and enforcement of this act, the net proceeds shall be distributed as follows:

(a) Fifty percent (50%) be prorated among all city and county boards of education for educational purposes on the basis of the previous year's net enrollment of pupils.

(b) Fifty percent (50%) be prorated among the Chambers County Commission general fund and the municipalities within the county, with each municipality receiving the amount that its population according to the latest federal census bears to the entire population of the county, and the general fund of the Chambers County Commission receiving the amount that the population of the county outside the municipalities bears to the entire population of the county according to the latest federal census. In the event of the incorporation of any new municipalities, the proration shall be based on the official population of the municipality at the time of

incorporation. Any annexation shall accrue to the city annexing according to the population annexed.

(c) Fifteen percent (15%) of the amount prorated to the county general fund in subsection 3 (b) shall be prorated among the fire and rescue squads located within the county.

**Section 4.** Any person, firm or corporation who violates any provision of this act or the rules and regulations provided by the county commission shall be guilty of a misdemeanor and upon conviction shall be punished as prescribed by law. Each month such violation continues shall constitute a separate offense.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** The tax authorized to be imposed by this act may be nullified at any time upon adoption of an appropriate resolution by the county commission.

**Section 7.** All laws or parts of laws in conflict with this act are repealed.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-490

H. 1019—Edwards

### AN ACT

To authorize the Wilcox County Commission to provide protection against forest fires within the county and to assess the whole or a part of the cost therefor, within a prescribed limit, against forest lands in the county; and to prescribe the procedure for levying and collecting such assessments.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county commission of Wilcox County is authorized, at its discretion, to provide protection against forest fires in Wilcox County by participating in the Alabama Forestry Commission's fire protection program in the manner hereinafter specified.

**Section 2.** (a) The Wilcox County Commission, at its

discretion, shall provide for a financial charge or tax to be paid by the owners of forest lands located in Wilcox County for the use of the land for timber growing purposes amounting to the whole or any part of the cost of such fire protection program, but not in excess of five cents per acre, provided such financial charge or tax is not greater than the benefit accruing to such forest lands due to the availability of such fire protection.

(b) "Forest lands" as used in this act, shall mean any land which supports a forest growth, or which under prevailing natural and economic conditions may be expected to support such a growth in the future, or which is being used or reserved for any forest purpose. "Forest lands" as used in this act, shall not include any lands primarily used for residential purposes nor shall include any publicly owned lands.

**Section 3.** The need for such a financial charge or tax to provide forest fire protection within the county shall be determined by the county commission after a public hearing is held thereon. Notice of such public hearing shall be given by the county commission for a period of two consecutive weeks by advertisement in a newspaper of general circulation in Wilcox County. Such advertisement must indicate the date, time, and place of the hearing, the manner proposed to finance such fire protection program, and the part of the cost of such program that is proposed to be paid by the owners of forest lands. Any person owning forest land in Wilcox County may appear in person or by attorney at such time and place and make defense against such financial charge or tax or the amount thereof. After such hearing the county commission shall determine whether or not a need exists for such a charge or tax; and if a need is found to exist for such financial charge or tax, the county commission shall determine the amount of such financial charge or tax and enter on the minutes of the county commission an order prescribing such financial charge or tax.

**Section 4.** Any such financial charge or tax provided for in the above section shall be payable at the same time and in the same manner as county ad valorem taxes by the owners of the forest lands, as herein defined. Financial charges or taxes levied shall constitute a lien on the property against which they are charged or taxed. In case of default in the payment of such financial charge or tax the land may be sold in the same manner and under the same conditions that lands are sold for the satisfaction of liens for county ad valorem taxes and redemption from such sale may be effected in the same manner as is provided by law for redemption where land is sold for nonpayment of ad valorem taxes.

**Section 5.** The county commission of Wilcox County is



authorized to appoint agents and delegate authority to individuals to search out forest lands in Wilcox County, determine the area and owners thereof, and report same to the Tax Assessor of Wilcox County who shall be authorized, after notice by certified mail to such owners, and hearing before the county commission if so requested by such owners, to place said financial charge or tax against said forest lands as may be designated by the report of such agents or the determination of said county commission.

**Section 6.** All monies accruing to Wilcox County shall be placed in the general fund of the county and shall only be spent by the county commission in participating in the Alabama Forestry Commission's forest fire protection program in Wilcox County.

**Section 7.** The county commission of Wilcox County is authorized to remove such financial charge or tax after said county commission has determined that the financial charge or tax is no longer needed. The county commission shall hold public hearings to determine whether or not the financial charge or tax is still needed. Procedures for such public hearing shall be the same as those in Section 3 of this act.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-491

H. 1039—Minus

### AN ACT

Relating to Sumter County; providing for the life saving standard that any person hunting deer with guns wear "hunter orange" and providing certain exceptions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Sumter County, any person hunting deer shall display on his or her head or chest, and/or back a total of not less

than 244 square inches of material of daylight fluorescent orange color known as "hunter orange."

**Section 2.** The provisions of this act shall not apply to persons hunting on property which is privately owned, to persons hunting deer from a tree or tree stand located eight or more feet above the ground, or to archery deer hunters except when bows and arrows are used to hunt deer on wild life management areas where a gun season for deer is in progress.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-492

H. 1040—Pegues

### AN ACT

To authorize the Perry County Commission to provide protection against forest fires within the county and to assess the whole or a part of the cost thereof, within a prescribed limit, against forest lands in the county; and to prescribe the procedure for levying and collecting such assessments.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county commission of Perry County is authorized, when the need exists, to provide protection against forest fires in Perry County by participating in the Alabama Forestry Commission's fire protection program in the manner hereinafter specified.

**Section 2.** (a) After the Perry County Commission has determined that such a need does exist in Perry County, the county commission may, in the manner hereinafter specified, provide for a financial charge or tax to be paid by the owners of forest lands located in Perry County for the use of the land for timber growing purposes amounting to the whole or any part of the cost of such fire protection program, but not in excess of five cents per acre, provided such financial charge or tax is not greater than the benefit accruing to such forest lands due to the availability of such fire protection.

(b) "Forest lands" as used in this act, shall mean any land which supports a forest growth, or which under prevailing natural and economic conditions may be expected to support such a growth

in the future, or which is being used or reserved for any forest purpose. "Forest lands" as used in this act, shall not include any lands primarily used for residential purposes nor shall it include any publicly owned lands.

**Section 3.** The need for such a financial charge or tax to provide forest fire protection within the county shall be determined by the county commission after a public hearing is held thereon. Notice of such public hearing shall be given by the county commission for a period of two consecutive weeks by advertisement in a newspaper of general circulation in Perry County. Such advertisement must indicate the date, time, and place of the hearing, the manner proposed to finance such fire protection program, and the part of the cost of such program that is proposed to be paid by the owners of forest lands. Any person owning forest land in Perry County may appear in person or by attorney at such time and place and make defense against such financial charge or tax of the amount thereof. After such hearing the county commission shall determine whether or not a need exists for such a charge or tax; and if a need is found to exist for such financial charge or tax, the county commission shall determine the amount of such financial charge or tax and enter on the minutes of the county commission an order fixing such financial charge or tax.

**Section 4.** Any such financial charge or tax fixed as provided in the above section shall be payable at the same time and in the same manner as county taxes and the owners of the forest lands, as herein defined, shall make report of same to the tax assessor of Perry County at the time fixed by law for making return of the property of such property owner. Financial charges or taxes levied shall constitute a lien on the property against which they are charged or taxed in case of default in the payment of such financial charge or tax the land may be sold in the same manner and under the same conditions that lands are sold for the satisfaction of liens for county ad valorem taxes and redemption from such sale may be effected in the same manner as is provided by law for redemption where land is sold for non-payment of ad valorem taxes.

**Section 5.** The county commission of Perry County is authorized to appoint agents and delegate authority to individuals to search out forest lands in Perry County, determine the area and owners thereof, and report same to the Tax Assessor of Perry County who shall be authorized, after notice by certified mail to such owners, and hearing before the county commission if so requested by such owners, to place said financial charge or tax against said forest lands as may be determined by the report of such agents or the determination of said county commission.

**Section 6.** All monies accruing to Perry County shall be placed in the general fund of the county and shall only be spent by the county commission in participating in the Alabama Forestry Commission's forest fire protection program in Perry County.

**Section 7.** The county commission of Perry County is authorized to remove such financial charge or tax after said county commission has determined that the financial charge or tax is no longer needed. The county commission shall hold public hearings to determine whether or not the financial charge or tax is still needed. Procedures for such public hearing shall be the same as those in Section 3 of this act.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-493

H. 1041—Pegues

### AN ACT

Relating to Perry County; authorizing the County commission to change its day of regular meeting of the Commission from the second and fourth Monday of each month as specified in the Code of Alabama 1975, Title 11, Chapter 3, Section 8, to the second and fourth Tuesday of each month.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Perry County, the county commission is hereby authorized to change its day of regular meeting of the Commission from the second and fourth Monday of each month as specified in Code of Alabama 1975, Title 11, Chapter 3, Section 8, to the second and fourth Tuesday of each month.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise

becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-494

H. 1042—Pegues

### AN ACT

Relating to Perry County; authorizing the county commission to levy an additional privilege, license or excise tax upon sellers, distributors, or users of malt or brewed beverages outside the municipal limits of Marion and Uniontown; and to provide for the distribution of the proceeds of said tax.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Perry County, in addition to all other taxes heretofore provided by law, the county commission is hereby authorized to levy an additional privilege, license or excise tax imposed upon every seller, distributor, storer or user of any malt or brewed beverages (including beer, lager beer, ale, porter, or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume) in said county but outside the corporate limits of the municipalities of Marion and Uniontown. The additional tax shall be an amount equal to two cents on each twelve fluid ounces or fractional part thereof, of malt or brewed beverages sold, used, consumed or distributed in the county but outside the corporate limits of the municipalities of Marion and Uniontown. The tax shall be in addition to all other taxes heretofore or hereafter levied on such beverages; provided, that where the amount of the tax imposed by this act shall have been paid to the county by any seller, distributor, dealer, or user, such payment shall be sufficient, the intent being that the tax levied by this act shall be paid but once.

**Section 2.** The proceeds of the tax imposed by this act shall be paid into the general fund in the county.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-495

H. 1043—Dial

## AN ACT

Relating to Clay County; providing further for the compensation of election officials.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each election official of Clay County shall receive the rate of the minimum wage for each hour, or fraction thereof, that the polls are open per day for the performance of his official duties. The county governing body of Clay County shall supplement the compensation already provided by the general law of the state with funds out of the county general fund sufficient to bring said compensation up to the amount provided for by this act; provided, however, in any municipal election in which the official serves, the supplement provided for herein shall be paid by the municipality in which such election is held.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws whether general, special, or local which directly conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-496

H. 1058—Harper (O), Turnham

## AN ACT

Relating to Tallapoosa County; removing raccoons and foxes from the category of fur-bearing animals.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Notwithstanding any rule or regulation promulgated by the Department of Conservation and Natural Resources to the contrary, raccoons and foxes are no longer to be categorized as fur-bearing animals in Tallapoosa County. After the effective date of this Act, raccoons and foxes shall be classified as game animals in Tallapoosa County.

**Section 2.** This Act shall become effective immediately upon

its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-497

H. 1059—Penry, McMillan

### AN ACT

Relating to Baldwin County; authorizing the county commission to protect the historic and preservation districts; creating certain agencies to promote the preservation of such districts which are located or are to be located in the designated historic districts; and adopting other provisions necessary to effect the purposes of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county commission of Baldwin County may adopt ordinances to protect the historic architectural character of the county in the manner hereinafter prescribed.

**Section 2.** The county commission may designate as a historic district any section of the county containing buildings designated by the Historic American Buildings Survey or any other recognized historic buildings survey, and having an overall atmosphere of architectural and historic distinction. In addition thereto, the county commission may also designate a second type of district to be known as a Preservation District to preserve the distinctive architectural character of the county by recognizing neighborhoods that continue to grow and develop over the course of years and possess a unique character that merits recognition and protection.

**Section 3.** A historic development commission with the following membership, duties and powers may be created by the county commission.

(A) Said commission shall be composed of no less than eleven members who shall be selected by the county commission in such a manner as to serve overlapping terms. Except for the first members, their terms shall be four years.

(B) The commission shall operate under a constitution as adopted by the commission and approved by the county commission.

(C) The commission shall have as its purposes (1) the preservation and protection of buildings of historic and

architectural value in the historic districts, as defined in Section 2 of this act, and the maintenance of the distinctive character of these districts, (2) the fostering and encouraging of the preservation, restoration, and utilization of buildings of historic and architectural value in the historic districts, (3) the development and promotion of historic districts, as major tourist attractions of historic and economic value.

(D) Said commission shall have the power and authority in addition to all powers conferred on it by the general law, (1) to purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage, and insure real and personal property of all kinds and descriptions; (2) to request, solicit and accept gifts, donations, pledges, fees, bequests, devises, loans or appropriations from any source whatsoever; (3) to set up at such lawful depository or depositories within Baldwin County, as it may select, a "Revolving Fund for Historic Development" which shall be composed of the monies which may come into its hands from any source whatsoever and which shall be used for the furtherance of the objectives and purposes of the commission, and (4) the commission may employ such professional, office, technical and other personnel as may be necessary or desirable for the carrying out in the most efficient manner of the purposes of such commission.

(E) The commission shall constitute a nonprofit governmental agency whose funds shall be used exclusively for public purposes. Such commission shall have a tax exempt status, and the properties of the commission and the income therefrom, together with all leases, agreements and contracts made by it, shall be forever exempt from any and all taxation by the State of Alabama and any political subdivision thereof, including, but not limited to, income, admission, amusement, excise and ad valorem taxes.

(F) It shall be the duty of the commission to exercise such powers as the commission shall deem necessary and fitting to carry out the above stated purposes.

**Section 4.** An architectural review board and a preservation district review board with the following membership, duties and powers may be created by the county commission.

(A) Each board shall be composed of five members selected by the county commission to serve overlapping terms. Except for the first members, their terms shall be five years. (B) each board shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. Meetings shall be held at



regular intervals, but at least monthly. Each board may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other civil employees of the county. Each board may also contract with architects and other professional and technical consultants for such services as it may require. The expenditures of each board, exclusive of gifts or grants, shall be within the amounts appropriated for the purpose by the county commission, which may provide the funds, equipment and accommodations necessary for the work of each board. (C) It shall be the duty of the architectural review board and preservation district review board to approve or disapprove plans for buildings to be erected or renovated which are located or are to be located within the historic and preservation districts respectively and landscaping for the same. The boards' authority shall extend only to the exterior of any building within the boundaries of such districts and the board shall have no authority to review the interior construction, renovation or style of any buildings within such districts.

**Section 5.** The county commission shall prescribe the procedure for the review of building plans for any building to be erected or renovated which is located or to be located in the designated historic districts, including rules governing decisions of the architectural review board and the procedure for appeal from decisions of the architectural review board. The county commission shall prescribe the procedure for the review of building plans for any building to be erected or renovated which is located or is to be located within the designated preservation districts, including rules governing decisions of the preservation district review board and the procedure for appeal from decisions of the preservation district review board.

**Section 6.** The county commission may adopt such other regulations as are necessary to effect the purposes of this act.

**Section 7.** All laws or parts of laws which conflict with this act are repealed.

**Section 8.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-498

H. 1060—McMillan, Penry

## AN ACT

Relating to Baldwin County; to provide further for the compensation of election officers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each election officer in Baldwin County shall receive from the county treasury the amount of money necessary to make his total compensation, including the amount paid by the state, \$20.00 per election.

If the election is a municipal election, the municipality shall pay such amount to the election officers.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-499

H. 1061—McMillan, Penry

## AN ACT

Relating to Baldwin County; to regulate and control the operation and licensing of massage parlors and to provide penalties for violation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall apply to Baldwin County, Alabama.

**Section 2.** The following words and terms as used in this act shall, unless the context requires a different meaning, have the meanings respectively ascribed to them by this section:

(A.) The term "massage parlor" shall mean any establishment, building, room, or place other than a regularly licensed hospital, medical clinic, nursing home, or dispensary, the offices of a physician, a surgeon, or an osteopath, where non-medical, non-surgical, non-osteopathic, and non-chiropractic manipulative exercises, massages, or procedures are practiced upon the human body, or any part thereof, for other than cosmetic

or beautifying purposes, with or without the use of mechanical or other devices, by anyone not a physician, surgeon, osteopath, or chiropractor or of a similarly registered status, and shall include any place where baths, exercises, or similar services are offered.

(B.) The term “masseur (male) and masseuse (female)” is a person who practices any one or more of the arts of body massage, either by hand or mechanical apparatus, oil rubs, corrective gymnastics, mechanotherapy, including color therapy, dietetics, hot packs, cabinet, tub, shower, sitz, vapor, steam, or any other special type of bath.

(C.) The word “establishment” shall mean a place of business or operation of any kind.

(D.) The word “person” shall include a firm, partnership, association of persons, corporation, organization, or any other group acting as a unit.

**Section 3.** It shall be unlawful for any person to operate a massage parlor as herein defined without first having acquired from the county governing body a license for the operation of said business as required by this act.

**Section 4.** Any massage parlor licensed by the county governing body shall at all times comply with all health regulations, rules, and requirements as shall now or hereafter be promulgated by the State Board of Health, and any premises used for the purposes of a massage parlor shall, during all hours of operation, be made open and available to inspection by duly authorized county officials for the purpose of assuring compliance with said health rules, regulations, and requirements. Each massage parlor shall be equipped with toilet and lavatory facilities for patrons and separate toilet and lavatory facilities for employees, and each operating area shall be equipped with a hand lavatory.

**Section 5.** (A.) No towels, wash cloths, or other linen items shall come in contact with the body or any other part thereof of any customer or patron at a massage parlor that have not been boiled and laundered since last used.

(B.) Every person applying or administering massages shall cleanse his or her hands thoroughly by washing same with soap and hot water before attending or massaging any person.

(C.) Any person while applying or administering massages shall be clothed from the shoulders to the knees by a robe, smock, or other opaque apparel so that the patron or customer shall be protected from bodily contact with the person applying or

administering the massage except for the hands and arms of said person applying or administering said massage.

(D.) Any massage parlor licensed pursuant to this act shall be equipped with running hot and cold water, and with all appliances, furnishings, and materials as may be necessary to enable persons employed in and about said massage parlor to comply with the provisions of this act.

**Section 6.** No massage parlor shall be used as and for a dormitory or place of sleep, nor shall any licensee under this act permit any massage parlor to be so used.

**Section 7.** No massage shall be administered or applied by any licensee hereunder or any employee, operator, or attendant while working for such licensee, except in or upon the premises or regular place of business of said licensee where said license is regularly displayed and at the place and location designated for the operation of said massage parlor in said license.

**Section 8.** No masseur, masseuse, or other employee or attendant in any massage parlor shall apply or administer any massage or other treatment to any person behind locked doors.

**Section 9.** Subsequent to the effective date of this act, it shall be unlawful for any masseur, masseuse, or other employee or attendant to administer massages in any massage parlor within the county without first, and within six months from the date thereof, having secured a written verification from a licensed Alabama physician that the said person or employee is free of any contagious, infectious, or communicable disease, and said masseur, masseuse, or other employee or attendant of any massage parlor shall, at all time while on duty or working in any such massage parlor, have upon his or her person, said written medical verification.

**Section 10.** It shall be unlawful for any person to render any service to the public upon the premises of a massage parlor within the county except during the time that the establishment is open with free access thereto by the public, during which time all portions of such establishment shall be open to the inspection of any county official and to any law-enforcement officer of the State, or of the jurisdiction where said establishment is located.

**Section 11.** It shall be unlawful for the owner, manager, or supervisor of a massage parlor within the county to allow, authorize, or tolerate in his or her establishment any activity or behavior prohibited by the laws of the State of Alabama including such laws proscribing acts of prostitution, sodomy, adultery, fornication, or any lewd or obscene act or performance.

Any final conviction of any owner, manager, or supervisor of any massage parlor of a violation of the foregoing mentioned acts occurring on or in connection with the establishment shall automatically terminate the license of said establishment and the county governing body shall so notify the holder thereof, and no new license for the operation of a massage parlor on the same premises thereafter shall be issued by the county governing body for a period of one year.

**Section 12.** It shall be unlawful for any person to operate a massage parlor, regardless of whether it is a public or private facility, or any bath parlor, or any similar type business within the county, where any physical contact with the recipient of such service is provided by a person of the opposite sex. Any person violating the provisions of this act shall, upon conviction, be punished by fine of \$500.00 or twelve months in jail, one or both; and in addition, final conviction of any owner, manager, or person in charge of premises upon which a massage parlor is operated shall automatically terminate the license of said establishment and the county governing body shall so notify the holder thereof, and no new license for the operation of a massage parlor on the same premises shall thereafter be issued by the county governing body for a period of one year.

**Section 13.** It shall be unlawful for any masseur, masseuse, attendant, or person employed in a massage parlor within the county to massage or in any way touch the genital organs of another in connection with any massage or other service rendered by said establishment. It shall be unlawful for any person to advertise or offer any massage or physical touching of the genital organs of another in connection with such a massage.

**Section 14.** Any license issued hereunder by the county governing body upon the violation of any section, requirement, or provision of this act by the licensee or any agent, attendant, or other employee of said licensee, provided the licensee shall first be notified of said violation and be afforded a hearing before the said county governing body. Written notice of any violation hereunder and any hearing thereon before the county governing body may be given to licensees by delivering said notice by hand to licensee, or in his absence to any adult person employed by licensee at the licensed premises or the deposit of said notice postage prepaid with the United States Postal Service and addressed to licensee at the licensed premises, not less than ten (10) days prior to such hearing before the county governing body and the licensee may present such evidence as he shall wish to the said governing body. In the event of any revocation of a license for the operation of a massage parlor in

accordance with this section, said licensee shall not be entitled to the issuance of a subsequent license for the operation of a massage parlor in the county within twelve (12) months following the date of said revocation.

**Section 15.** Any person who shall violate any provision or section of this act for which a penalty is not otherwise provided, or who shall do any act made unlawful by this act for which a penalty is not otherwise provided, shall, upon conviction thereof, be guilty of a Class B misdemeanor as defined in Section 13A-5-3, Code of Alabama 1975.

**Section 16.** It is hereby declared to be the intention of the Legislature that the sections, paragraphs, sentences, clauses, and phrases of this act are severable; and if any phrase, clause, sentence, paragraph, or section of same shall be declared unconstitutional or otherwise invalid by the judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this act, since the same would have been enacted by the Legislature without the incorporation in this act of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

**Section 17.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-500

H. 1062—McMillan, Penry

### AN ACT

Relating to Baldwin County; levying an additional sales tax paralleling the state sales tax provided for in Sections 40-23-1, 40-23-2, 40-23-3, and 40-23-4, Code of Alabama 1975, providing for the collection, distribution and use of the proceeds of such tax; providing for the enforcement of this act by the state department of revenue; prescribing penalties and fixing punishment for violation of this act; and to provide that the substantive provisions hereof must be approved by the voters of the area in which the tax would be levied.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall only apply to Baldwin County.

**Section 2.** All words, terms, and phrases as defined in Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975, as amended, providing for the levy of a state sales tax shall, wherever used in this act, have the same meanings respectively ascribed to them in said sections, except where the context herein clearly indicates a different meaning. In addition, the following words, terms, and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

“State sales tax statutes” means Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of Code of Alabama 1975, as amended, which levy a certain retail sales tax, and include all statutes, including amendments to said sections, which expressly set forth any exemptions from the computation of the tax levied by said sections and all other statutes which expressly apply to, or purport to effect, the administration of said sections and the incidence and collection of the tax imposed therein;

“State sales tax” means the tax imposed by the state sales tax statutes;

“Month” means the calendar month;

“County” means Baldwin County.

**Section 3.** There is hereby levied and imposed with the county, in addition to all other taxes, including municipal gross receipts license taxes now imposed by law, a special county privilege license tax paralleling the state sales tax, such privilege license tax to be determined by the application of rates against gross sales or gross receipts, as the case may be, and within specified areas at the rate of 1% of the gross proceeds of sales or receipts.

There are exempted, however, from the provisions of this section and from the computation of the amount of the tax imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the state sales tax statutes from the computation of the amount of the state sales tax.

**Section 4.** The sales taxes levied in Section 3 of this act shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues. All taxes levied in this act shall be paid to and collected by the state department of revenue at the same time and along with the collection of the state sales tax. On or prior to the due dates of the tax herein levied each person subject to such tax shall file with the

state department of revenue a report or return in such form as may be prescribed by the department, setting forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied, a correct statement of the gross proceeds of all such sales and gross receipts of all such business transactions. Such report shall also include such other items of information pertinent to the said tax and the amount thereof as the state department of revenue may require. Any person subject to the tax levied may defer reporting credit sale until after their collection, and in the event such person so defers reporting them, such person shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the tax due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the Baldwin County Commission, or its designated agent, at reasonable times during business hours.

**Section 5.** Each person engaging or continuing within Baldwin County in a business subject to the tax levied in Section 3 of this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said sale or admission. It shall be unlawful for any person subject to the tax levied to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount herein required to be so added to the sale or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said tax or any portion thereof.

**Section 6.** The tax imposed by this act shall constitute a debt due Baldwin County and may be collected as provided by law. The said tax, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said tax is due or who is required to collect said tax. All of the provisions of the revenue laws of this state which apply to the enforcement of liens for license taxes due this state shall apply fully to the collection of the tax herein levied, and the state department of revenue, for the use and benefit of Baldwin County shall collect such tax and enforce this act and shall have and exercise for such collection and enforcement all rights and remedies that this state or the department has for collection of the state sales tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the tax levied by this act, and to otherwise enforce the provisions of this act, including any litigation



involving this act; and the department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the tax collected by it for Baldwin County.

**Section 7.** All provisions of the state sales tax statutes with respect to payment, assessment, and collection of the state sales tax, making of reports and keeping and preserving records with respect thereto, penalties for failure to pay the tax, the promulgation of rules and regulations with respect to the state sales tax, and the administration and enforcement of the state sales tax statutes, which are not inconsistent with the provisions of this act when applied to the tax levied in Section 3 of this act shall apply to the county tax levied under this act. The state commissioner of revenue and the state department of revenue shall have and exercise the same powers, duties and obligations with respect to the county tax levied under this act that are imposed on such commissioner and department, respectively, by the state tax statutes. All provisions of the state sales tax statutes that are made applicable by this act to the county tax levied under this act and to the administration and enforcement of this act are hereby incorporated herein by reference and made a part hereof as if fully set forth herein.

**Section 8.** The state department of revenue shall charge Baldwin County for collecting the special county tax levied under this act such amount or percentage of total collections as may be agreed upon by the commissioner of revenue and the Baldwin County Commission, but such charge shall not, in any event, exceed ten per cent of the total amount of the special county tax collected in said county under this act. Such charge for collecting such special tax may be deducted each month from the gross revenues from such special tax before certification of the amount of the proceeds thereof due Baldwin County for that month. The commissioner of revenue shall pay into the state treasury all tax collected under this act, as such tax is received by the department of revenue, and on or before the first day of each successive month (commencing with the month following the month in which the department makes the first collection hereunder) the commissioner shall certify to the state comptroller the amount of tax collected under the provisions of this act and paid by him into the state treasury for the benefit of Baldwin County during the month immediately preceding such certification. Provided, however, that before certifying the amount of the tax paid into the state treasury for the benefit of Baldwin County during each month, the commissioner may deduct from the tax collected in said month the charge due the department for the collection of the tax for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the county treasurer of Baldwin County in his official capacity in an amount

equal to the amount so certified by the commissioner of revenue as having been collected for the use of the county. He shall then deliver to the Baldwin County board of education the balance remaining, to be used exclusively by said board for the construction, maintenance, and repair of the public schools.

**Section 9.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** The provisions of Sections 1 through 10 shall become operative only if this act is approved by a majority of the qualified electors residing within the county gross receipts tax area, as hereinabove defined, voting at a referendum election held for such purpose. The election shall be held in the same manner as elections on amendments to the Constitution, to be held on the date of the general or primary election next succeeding the final adjournment of the current session of the legislature. Notice of the election shall be given by the judge of probate of Baldwin County, which notice shall be published once a week for three successive weeks before the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law levying an additional sales tax in your area, the proceeds of which will be used for the board of education for the construction, maintenance, and repair of schools in the county? Yes ( ) No ( ).”

If a majority of the votes cast are in the affirmative, then the substantive provisions of this act shall become effective on the first day of the next month following the election. If a majority of the votes cast are in the negative, this act shall have no further force and effect. The judge of probate shall certify the results of the election to the state commissioner of revenue immediately after the returns have been made.

Approved May 19, 1980

Time: 5:00 P.M.

**EXPRESSING APPRECIATION TO THE ROTUNDA  
TELEPHONE OPERATORS FOR THEIR COURTEOUS  
ASSISTANCE TO MEMBERS OF THE LEGISLATURE.**

WHEREAS, as in past years, our telephone operators stationed in the Rotunda, whose services are provided by South Central Bell, have been a great help to all members of the Legislature; and

WHEREAS, never failing in courtesy, Ms. Mildred Auxford, Ms. Mildred Griffin and Ms. Ann Stephenson have expertly and efficiently handled untold number of calls for the Legislature, delivering messages with unerring dependability and with as little delay as possible; and

WHEREAS, the availability and convenience of this very necessary central message center has been invaluable to the Alabama Legislature, and to such a degree that it would be difficult to imagine having to function without this service; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF  
ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we hereby express deep appreciation to Mesdames Auxford, Griffin and Stephenson for their courteous assistance to the members of the Legislature.

**BE IT FURTHER RESOLVED,** That these ladies be presented with copies of this resolution in token of appreciation, our warm praise and high regard.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-502

H.J.R. 233—Williams

**HOUSE JOINT RESOLUTION**

**COMMENDING THE "PRIDE OF THE SOUTH," THE  
DALEVILLE HIGH SCHOOL BAND.**

WHEREAS, since 1976, the Daleville High School Band has been under the direction of Tony and Rhonda Whetstone and, since that time, this "Pride of the South" ensemble has dedicated itself to achievement through countless hours of determined and disciplined practice; and

WHEREAS, spending many extra hours in preparation for each performance, the Daleville High Band has truly reaped the

rewards of their labors, receiving sixteen straight superior ratings just in the past two years alone; and

WHEREAS, in realizing this extraordinary accomplishment, the "Pride of the South" Band has been named "Superior" in competitions in Troy, Alexander City, Lake Martin, Andalusia, Birmingham, Midfield, and Lanett in Alabama and in Columbus, Georgia; Nashville, Tennessee; and Atlanta, Georgia; superior awards also have been won for Color Guard, Drum Major and Feature Twirler; and

WHEREAS, in 1978, the band was acclaimed a Superior Concert Band on the national level and has since sustained this national title; their two-year sweep of sixteen straight "superiors" also is a record held only by the Daleville Band in that area of our state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Daleville High School's "Pride of the South" Band and direct that a copy of this resolution be forwarded to Directors Tony and Rhonda Whetstone on behalf of the entire band, with a copy also provided for appropriate school display.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-503

H.J.R. 234—Williams, Gilmer

### HOUSE JOINT RESOLUTION

#### RECOGNIZING THE OUTSTANDING JUNIOR R.O.T.C. PROGRAM OF DALEVILLE HIGH SCHOOL.

WHEREAS, the outstanding Junior ROTC program at Daleville High School is conducted by Lieutenant Colonel (Retired) John H. Anderson and under whose leadership the unit has been ranked in the top 40 percent of all Alabama JROTC units for four years, and in the top 20 percent for five years; and

WHEREAS, to enhance the JROTC program and provide additional extracurricular activities, rifle teams are formed to compete both locally and statewide, and nationally as well; and

WHEREAS, the Daleville High School JROTC Rifle Team, dominating the rifle scene for many years, has won the Wiregrass Rifle Conference Championship for six consecutive years and the

Marion Military Institute Invitational Match for five consecutive years; the team also won first place in the Tri-Cities Match for five years and "Firsts," also, in the Wiregrass Navy Cup Match, Enterprise-Daleville Invitational Match, the Auburn Invitational and the Junior N.R.A. Sectional Match at Fort Benning, Georgia; and

WHEREAS, further, they are the U.S. Army Training and Doctrine Command National Champions for Division 3 of the Junior ROTC and, on April 12, 1980, successfully defended their title of Alabama State Champions for the fourth year in a row; and

WHEREAS, Daleville High is indeed deserving of high praise for their outstanding ranking in Alabama's Junior ROTC program which is conducted in high schools throughout the state with the mission of developing good citizens and responsible leaders of tomorrow; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate the Daleville High School Junior ROTC unit for outstanding accomplishment and for numerous awards and honors in inter-unit competition.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for appropriate school display with a copy also sent to Lieutenant Colonel Anderson on behalf of his championship unit of Junior ROTC.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-504

H.J.R. 239—Holmes, Kennedy, Buskey

### HOUSE JOINT RESOLUTION

COMMENDING DR. O. S. GUMBS, GRAND POLEMARCH OF KAPPA ALPHA PSI.

WHEREAS, the Legislature of Alabama has noted the recent prestigious election of Dr. O. S. Gumbs of Mobile, Alabama, to the office of Grand Polemarch of Kappa Alpha Psi Fraternity, Incorporated; and

WHEREAS, this national presidency of Kappa Alpha Psi is a culmination of many offices held by Dr. Gumbs since his 1936 initiation into Alpha Gamma chapter at Virginia Union University; and

WHEREAS, Dr. Gumbs who was engaged in the private practice of Medicine in Mobile for more than 25 years, has for the past six years been associated with the Mobile Mental Health Center as Director of the Gateway Drug Program, which serves the entire Southern half of our state, and also as physician-in-charge of the center's Chemotherapy Division; and

WHEREAS, a pre-med student at Cornell University, Dr. Gumbs also attended Virginia Union University where he was a Student Instructor of Chemistry and is a graduate of Meharry Medical College; and

WHEREAS, further deeply involved in business, community and civic affairs, he is a past vice president and organizer of Gulf Federal Savings and Loan Association, 1979 President of East Coast Realty, and is a past president also of both the 3G Developing Company and the three-state Gulf Coast Medical Society which he helped organize; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Dr. O. S. Gumbs as one of our state's most prominent physicians and congratulate him as national president, Grand Polemarch, of Kappa Alpha Psi Fraternity, Incorporated.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Dr. Gumbs that he may know of our congratulations, warm praise and high regard.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-505

H.J.R. 241—Ford, Drinkard

### HOUSE JOINT RESOLUTION

COMMENDING DOCTOR O. R. GRIMES OF GADSDEN ON FIFTY YEARS OF DEDICATED SERVICE TO HIS PROFESSION.

WHEREAS, the Legislature of Alabama has noted the recent recognition accorded Dr. O. R. Grimes, one of Gadsden's most prominent physicians, for his 50 years of medical service to the citizens of his community; and

WHEREAS, Dr. Grimes is a native of Coffee Springs in South Alabama; he attended Birmingham-Southern for undergraduate

studies and graduated from medical school at Emory University, working the entire time to pay his way through school and finally repaying his college debts some seven years after opening his practice; and

WHEREAS, Dr. Grimes began his practice in Gadsden in 1930, and has since conscientiously served the needs of his patients, making countless sacrifices in his own personal life to render invaluable service to all, regardless of ability to pay; and

WHEREAS, although the majority of Dr. Grimes' work has been in the area of obstetrics, having delivered 8,341 babies during his career, he also has re-set thousands of bones and cured his patients of almost every known kind of illness and disease; and

WHEREAS, Dr. O. R. Grimes stands tall as a dedicated physician and indeed has earned the gratitude, love and respect of thousands of citizens in his area of the state; he belongs to a dedicated group, now of the past, who practiced 24 hours a day and seven days a week, coping with illness and disease without the aid of modern-day miracle drugs and equipment; and

WHEREAS, though retired from active practice for some two years, Dr. Grimes' health care involvement continues through volunteer work with the Etowah Health Center in obstetrics and pediatrics, and with the resident's program of the Family Practice Center at Baptist Hospital; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most highly commend Dr. O. R. Grimes on his outstanding career and for his devotion, dedication and excellence of service to his fellowman; we further wish him many long years of continued success and direct that he receive a copy of this resolution as evidence of our deep appreciation and high regard.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-506

H.J.R. 242—Ford, Drinkard

### HOUSE JOINT RESOLUTION

COMMENDING MR. FRANK HELDERMAN, SR.,  
RECIPIENT OF THE WILLIAM CRAWFORD GORGAS  
AWARD.

WHEREAS, the Alabama Legislature has noted the recent naming of Mr. Frank Helderman, Sr., as the recipient of this year's prestigious William Crawford Gorgas Award of the Medical Association of Alabama, the association's highest honor bestowed upon an Alabama citizen not of the medical profession; and

WHEREAS, named for the Alabama native whose destruction of mosquitoes helped to quell yellow fever and malaria epidemics during construction of the Panama Canal and who later became Surgeon General of the United States Army, the Gorgas Award was presented to Mr. Helderman for his "outstanding contribution to the health care of Gadsden and Etowah County"; and

WHEREAS, Mr. Helderman, publisher of *The Gadsden Times*, has long evidenced his interest in the welfare of others through his leadership in fund raising for the improved health care of his community, most particularly his beneficial efforts on behalf of the Cherokee-Etowah-DeKalb Mental Health Center, Baptist Memorial Hospital, Holy Name of Jesus Hospital and the Gadsden State Junior College nursing program; and

WHEREAS, it is to be noted that, in gratitude, the intensive care unit at Baptist Hospital as well as the School of Nursing building at Gadsden State have been named in his honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we today pay tribute to Mr. Frank Helderman, Sr., expressing the appreciation of the Legislature for his many contributions in the area of quality health care for Alabama citizens.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. Helderman that he may know of our sincere congratulations, which we tender in appreciation and in warm praise.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-507

H. 292—Warren, McMillan

### AN ACT

To amend Section 9-13-10, Code of Alabama 1975, which relates to the powers of state forestry commission employees, so as to further provide for said powers.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 9-13-10 Code of Alabama is hereby amended to read as follows:

"9-13-10. All employees of the State Forestry Commission appointed as forest law enforcement officers by the State Forester are hereby constituted peace officers of the State of Alabama with full police power and may exercise such powers anywhere within the State. They are hereby authorized to carry firearms or other weapons when they are actually in the discharge of their duties as such officers as provided by law. They shall be clothed with the power to arrest with or without warrant any person who shall violate any of the laws of the State of Alabama or any rule or regulation of the Alabama Forestry Commission and take him before a proper Court for trial. All employees of the state forestry commission and all duly appointed officers of the United States whose duty it is to prevent and suppress forest fires are empowered to enter any lands and to construct thereon fire lines, fire lanes or fire breaks, to set back fires thereon if necessary to prevent the further spread of fire then actually burning and to do all other work necessary in the performance of their duties, including the right to enter any lands for the purpose of making investigations for the cause or causes of fires, without liability for trespass or damage therefrom."

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-508

H. 340—Boles

### AN ACT

To further amend Section 1 of Act No. 458, H. 1175, Regular Session 1975 (Acts of Alabama 1975, p. 1085), as amended, relating to the election of certain assistant county officials of Jefferson County to serve in the branch offices in the City of Bessemer so as to remove the provisions relative to the deputy sheriff; and to specifically repeal Act No. 607, H. 923 and Act No. 661, H. 990, of the 1978 Regular Session (Acts 1978, pp. 863 and 953, respectively), and other conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 458, H. 1175, Regular Session 1975 (Acts of Alabama 1975, p. 1085) is hereby amended to read as

follows:

"Section 1. (a) Those deputy or assistant county officials serving in the branch offices in the City of Bessemer in Jefferson County, maintained as required by Act No. 490, H. 1566, Regular Session (General Acts of Alabama 1915, p. 549), hereafter listed shall, in lieu of being appointed by the principal county officers, be elected and nominated in the same manner that the circuit judges sitting at Bessemer and the deputy district attorney of the Bessemer Division of Jefferson County are nominated and elected, as follows, by the qualified voters of the territory over which the circuit court of the tenth judicial circuit sitting at Bessemer has and exercises jurisdiction; and each of such officials shall at the time of his election and during his term of office reside within the territory from which he is elected:

"(1) Assistant Tax Collector shall be elected at the general election held on the first Tuesday after the first Monday in November 1984, and every six years thereafter.

"(2) Assistant Tax Assessor shall be elected at the general election held on the first Tuesday after the first Monday in November 1984, and every six years thereafter.

"(3) Deputy Treasurer shall be elected at the general election held on the first Tuesday after the first Monday in November 1984, and every four years thereafter.

"(4) Assistant Probate Judge shall be elected at the general election held on the first Tuesday after the first Monday in November 1984, and every six years thereafter.

"(b) The duties and compensation of such officials shall be the same as heretofore provided by law.

"(c) Each principal county officer may summarily remove his deputy or assistant, elected as prescribed above, only if he has good and valid reasons for believing that such deputy or assistant is guilty of one of the offenses for which the principal may be impeached; and if he does remove such deputy or assistant the principal officer shall immediately notify the judge of probate of the county of the vacancy and the judge of probate shall call a special election, to be held not less than 30 nor more than 45 days thereafter, to fill such vacancy."

**Section 2.** Act No. 607, H. 923 and Act No. 661, H. 990 of the 1978 Regular Session (Acts 1978, pp. 863 and 953, respectively), are specifically repealed, and all laws or parts of laws which are in direct conflict with this Act are hereby repealed.

**Section 3.** The provisions of this Act are severable. If any part or parts of this Act are declared invalid or unconstitutional, such declaration shall not affect that part that remains.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-509

H. 785—Blake

### AN ACT

To alter or rearrange the boundary lines of the Town of Branchville, St. Clair County, Alabama, so as to include within the corporate limits of said town all territory now within such corporate limits, and also certain other territory in St. Clair County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the Town of Branchville, St. Clair County, Alabama, be and the same are altered or rearranged so as to include within the corporate limits of said town, all territory now within such corporate limits, and also other territory within St. Clair County, Alabama, described as follows: The Northeast quarter of the Northwest quarter of section 10, Township 16, Range 2 East. All of the above described lands are situated in St. Clair County, Alabama, and being contiguous and adjacent to the present boundary of the said Town of Branchville, Alabama.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-510

H. 904—Naramore

### AN ACT

To amend Section 32-6-4, Code of Alabama 1975, as amended to increase fee from ten to fifteen dollars for a four-year driver license or identification card.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-6-4, Code of Alabama 1975, as amended, is hereby amended to read as follows:

“§32-6-4. Application for license or identification card; fee; duration; issuance.”

“(a) Upon the installation of a system for the issuance of driver’s licenses and non driver identification cards with color photographs of licensees and nondrivers thereon, all such licenses and identification cards and renewals thereof issued in this state shall be issued in the following manner:

“(1) Such person shall apply under oath to the judge of probate or license commissioner of the county of his residence for said driver’s license or nondriver identification card or a renewal thereof upon a form which shall be provided by the director of public safety.”

“(2) The judge of probate or license commissioner shall take a color photograph of the licensee with equipment to be furnished by the department of public safety to be attached to each application.”

“(b) For the purpose of defraying the cost of issuing driver’s licenses for nondriver identifications cards with color photographs of the licensee or nondriver thereon, the probate judge or license commissioner shall collect for each license or identification card the sum of \$15.00 for a four-year license or identification card, and the judge of probate or license commissioner shall give the licensee a driver’s license or identification card.”

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

## AN ACT

Relating to Marion County; to amend Act No. 80- , HB 603, 1980 Regular Session, entitled "An Act Relating to Marion County; providing for the disposal of property under the control of the county commission; providing that competitive bids must be submitted; providing for the disposition of revenues received from the sale of said property; and providing for penalties for violations," so as to provide further for said disposal.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act No. 80- , HB 603, 1980 Regular Session, is hereby amended to read as follows:

"Section 2. All contracts for the sale or disposal of real property, tangible personal property, equipment or other items valued at \$300.00 or more and owned by or under the control of the county commission shall be let by free and open competitive sealed bids. The chairman of the county commission shall certify to the description and condition of said property, shall give jurisdiction in writing for the disposal of the property, shall estimate the value of the property and shall keep the certification as a part of the permanent record of the commission."

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-512

H. 1023—Reed

## AN ACT

Relating to Macon County; to provide for the total rehabilitation of certain persons, both male and female, convicted of any type crime and sentenced to a term of confinement in the county jail of any such county; and to provide penalties for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this Act shall apply to Macon County.

Provided, however, that the implementation of the provisions of this Act shall be completely discretionary with the county commission.

**Section 2.** Certain terms, as used in this act, shall have the

following meaning:

(1) "Board" shall mean County Rehabilitation Board composed of the Probate Judge, the District Attorney, the Sheriff, the Superintendent of Education, the head of the Ministerial Conference, the Juvenile Probation Officer, the Probation Officer and the chairman of the Macon County Commission, and four residents of Macon County: One adult male, one adult female, one minor male and one minor female who shall be named by the legislative delegation representing Macon County. The senator, or the representative or representatives of Macon County shall individually or jointly convene persons named in said Act and shall preside over the meetings. Said four Macon County residents' term of office as members of the board shall end when the term of office of the appointing authority ends. Any vacancy in the positions filled by the four residents shall be filled by the appointing authority.

(2) "Inmate" shall mean a prisoner either male or female, convicted of a crime and sentenced to a term of confinement in the county jail.

**Section 3.** The Board shall adopt regulations and policies permitting the Sheriff to extend the limits of the place of confinement of an inmate, as to whom there is reasonable cause to believe he will know his trust, by authorizing him under prescribed conditions, to leave the confines of the county jail unaccompanied by a custodial agent for a prescribed period of time to work at paid employment, while continuing as an inmate in the county jail in which he shall be confined except during the hours of his employment or any other absence authorized by the board and traveling thereto and therefrom. Inmates shall participate in paid employment at the discretion of the board.

**Section 4.** The employer of an inmate involved in the work release program shall pay the inmate's wages direct to the Board. The Board may adopt regulations concerning the disbursement of any earnings of the inmates involved in the work release program. The Board is authorized to withhold from an inmate's earnings 20 percent of his or her gross earnings to pay such cost incident to the inmate's confinement. After 20 percent has been deducted from the inmate's gross pay the remainder of the inmate's earnings shall be credited to his account in a local bank, and upon his release from confinement shall be turned over to the inmate. The Board may elect, however, to pay the remaining 80 percent of the inmate's earnings to his family to be used by them for their support while the inmate is confined, provided the inmate consents to such payment.

**Section 5.** The willful failure of an inmate to remain within the extended limits of his confinement or to return to the county jail within the time prescribed by the Sheriff shall be deemed as an escape from the custody of the Sheriff and shall be punishable as prescribed by law for escaped prisoners.

**Section 6.** Employees of the Board or persons designated by the Board are authorized to make investigations and recommendations pertaining to the validity of request for job opportunities for inmates and to otherwise assist the Sheriff in the implementation of the program herein authorized.

**Section 7.** The Board or members of the Board shall endeavor to secure employment for eligible inmates under this act subject to the following:

(1) Such employment must be at a wage at least as high as the prevailing wage for similar work in the area or community where the work is performed in accordance with the prevailing working conditions in such area;

(2) Such employment shall not result in displacement of employed workers;

(3) Inmates eligible for work release shall not be employed as strike-breakers or in impairing any existing contracts;

(4) Exploitation of eligible inmates, in any form, is prohibited either as it might effect the community, the inmates, or the Board.

**Section 8.** The Board, at its discretion, may also allow an inmate to participate in the release program to further the inmates education. Under this section the inmate must follow all the rules and regulations prescribed for other inmates participating in the work release program.

**Section 9.** The Board may adopt rules and allow the Sheriff to grant furloughs or leave time not to exceed three consecutive days or 72 hours to inmates who the Board deems are deserving.

**Section 10.** No inmate granted privileges under the provisions of this act shall be deemed to be an agent, employee, or involuntary servant of the Board, State, or county, while involved in the free community or while going to and from employment, or other specified areas or while on furlough.

**Section 11.** The Sheriff or person designated by the Board shall prepare an annual report to be filed with the Board not later than sixty days from the close of each fiscal year showing the operations and administrations and suggestions as deemed

advisable. The Board shall designate someone to keep such records as they deem appropriate and shall compensate them from the 20 per cent earnings retained from the inmates.

**Section 12.** Anyone violating any of the provisions of this act shall be guilty of a misdemeanor.

**Section 13.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 14.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 15.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-513

H. 1024—Reed

### AN ACT

Relating to Macon County; to provide for the clerical assistance to the tax assessor; and to make this act retroactive to October 1, 1979.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The tax assessor of Macon County is authorized, with the approval of the county commission, to employ three (3) full-time clerks and two (2) part-time clerks. Such clerks shall be paid out of the county general fund at the same level as secretaries are paid by the county commission.

Provided, however, that the implementation of the provisions of this Act shall be completely discretionary with the county commission.

**Section 2.** Act 13, S. 68, Regular Session 1957 (Acts 1957, p. 38) is hereby expressly repealed. All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** The provisions of this act shall have retroactive



effect to October 1, 1979.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-514

H. 1025—Reed

AN ACT

Relating to Macon County; to provide for the clerical assistance to the tax collector; and to make this act retroactive to October 1, 1979.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The tax collector of Macon County is authorized, with the approval of the county commission, to employ two (2) full-time clerks and one (1) part-time clerk. Such clerks shall be paid out of the county general fund at the same level as secretaries are paid by the county commission.

Provided, however, that the implementation of the provisions of this Act shall be completely discretionary with the county commission.

**Section 2.** Act 12, S. 69, Regular Session 1957 (Acts 1957, p. 37) is hereby expressly repealed. All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** The provisions of this act shall have retroactive effect to October 1, 1979.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-515

H. 1044—Coburn, Goodwin

AN ACT

To extend, alter and rearrange the boundaries and corporate limits of the City of Sheffield so as to annex certain contiguous territory to the City of Sheffield.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines and corporate limits of the

City of Sheffield be, and the same are, hereby extended, altered and rearranged so as to include within the corporate limits of the City of Sheffield all of the following additional contiguous territory in Colbert County, Alabama, to-wit:

#### XT2NPT-8E

A tract of land lying in Colbert County, State of Alabama, partly in the W $\frac{1}{2}$  sec. 26 and partly in the E $\frac{1}{2}$  sec. 27, T. 3 S., R. 11 W., east of the west boundary of Muscle Shoals Reservation, west of and adjacent to the west right of way line of U.S. Highway 43, and more particularly described as follows:

Beginning at a metal marker (Coordinates N. 1,734,052; E. 449,267) in the east line of the right of way for the L&N and Southern Railroads and in the west boundary of the Muscle Shoals Reservation; thence S. 89° 53' E., 558.00 feet to a point on the west right of way line of U.S. Highway 43, said highway having a 150-foot-wide right of way; thence S. 4° 36' W. along the west right of way line of U.S. Highway 43 2,205.82 feet to a point on the north right of way line of a United States railroad; thence N. 77° 29' W., on a line 50 feet north of and parallel to the center line of a single track railroad, along the boundary of said railroad right of way 929.25 feet to the point of curvature of a curve to the left, said curve having a radius of 1,162.85 feet; thence along said curve to the left and along said railroad right of way line, staying 50 feet north of and parallel to the center line of said single track railroad, an arc distance of 355.51 feet to a point of compound curve to the left, chord connecting point of curve to point of compound curve being N. 86° 14' 30" W., 354.12 feet; thence from point of compound curve where radius changes from 1,162.85 feet to 860.48 feet, along said curve to the left and along said railroad right of way line, staying 50 feet north of and parallel to the center line of said single track railroad, an arc distance of 269.20 feet to a point on the east boundary of L&N and Southern Railroads' 100-foot right of way, chord to said 269.20 arc being S. 75° 59' 30" W., 268.10 feet; thence in a northerly direction along the east boundary of the right of way of L&N and Southern Railroads' 100-foot right of way as follows: In a northerly direction along a curve to the left, having a radius of 5,444.80 feet, an arc distance of 411.80 feet to a point of compound curve where radius changes from 5,444.80 feet to 5,840.20 feet, chord to said 411.80 arc being N. 38° 48' 30" E., 411.70 feet; thence in a northerly direction along a curve to the left having a radius of 5,840.20 feet, an arc distance of 395.83 feet to a point of compound curve where radius changes from 5,840.20 feet to 6,572.89 feet, chord to said 395.83 feet arc being N. 34° 42' E., 395.73 feet; thence in a northerly direction along a curve to the left having a radius of 6,572.89 feet, an

arc distance of 378.57 feet to a point of compound curve where radius changes from 6,572.89 feet to 4,747.82 feet, chord to said 378.57 feet arc being N. 31° 06' 30" E. 378.51 feet; thence in a northerly direction along a curve to the left having a radius of 4,747.82 feet, an arc distance of 370.13 feet to a point of compound curve where radius changes from 4,747.82 feet to 6,928.53 feet, chord to said 370.13 feet arc being N. 27° 13' 30" E. 370.04 feet; thence around a curve to the left having a radius of 6,928.53 feet, an arc distance of 386.96 feet to a point of compound curve where radius changes from 6,928.53 feet to 5,412.69 feet, chord to said 386.96 feet arc being N. 23° 23' 30" E., 386.91 feet; thence around a curve to the left having a radius of 5,412.69 feet, an arc distance of 338.51 feet to a point of tangency, chord to said 338.51 feet arc being N. 19° 59' 45" E., 338.46 feet; thence N. 18° 12' E., 71.62 feet to the point of beginning containing 45.22 acres, more or less.

**Section 2.** All laws or parts of laws which conflict with this Act are repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-516

H. 1048—Bowling, Brakefield

### AN ACT

To provide an expense allowance for the Circuit Court Register in Winston County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Circuit Court Register of Winston County shall be entitled to an expense allowance of \$3,600.00 per annum, to be paid from the general fund of the County in equal monthly installments at the end of each month. This expense allowance shall be in addition to all other salary increments.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 517

H. 1049—Roberts, Patton, Letson, Cooley

## AN ACT

Relating to Morgan County; amending further Act No. 520, H. 1154, Regular Session 1965 (Acts 1965, p. 762), relative to establishing a jury commission for the county, so as to provide further for the compensation of said commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 3 of Act No. 520, H. 1154, Regular Session 1965 (Acts 1965, p. 762), as amended, is hereby further amended to read as follows:

“Section 3. The ex officio members of the jury commission of Morgan County shall not be entitled to any remuneration whatever for the performance of their duties as jury commissioners. The appointed members of the commission shall be entitled to compensation at a rate of fifteen dollars a day for each day’s service, but not exceeding an annual amount to be determined by the county governing body. The commission is authorized and empowered to employ a clerk to serve under the direction of the commission and to perform the duties incumbent upon such clerk under the general laws of the State of Alabama as prescribed in Section 12-16-37, Code of Alabama 1975.”

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-518

H. 1051—Gilmer

## AN ACT

Relating to Lamar County; to further provide for the compensation and expense allowances of certain members of the county commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The members of the Lamar County Commission, excluding the probate judge, shall receive an additional expense allowance of \$100 per month. Said expense allowance shall be paid by warrant drawn on the general fund in the county treasury in a manner provided by law and shall be in addition to any salary or expense allowance currently provided by law.

**Section 2.** Effective with the next term of office, \$250 of expense allowances provided to the members of the county commission by law shall be converted to salary, and any additional expense allowance over said amount shall continue to be paid as expense allowance.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-519

H. 1052—Gilmer

### AN ACT

Relating to Lamar County; providing for the disposal of property under the control of the county commission; providing that competitive bids must be submitted; providing for the disposition of revenues received from the sale of said property; and providing for penalties for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall only apply in Lamar County.

**Section 2.** All contracts for the sale or disposal of real property, tangible personal property, equipment or other items owned by or under the control of the county commission shall be let by free and open competitive sealed bids. The chairman of the county commission shall certify to the description and condition of said property, shall give jurisdiction in writing for the disposal of the property, shall estimate the value of the property and shall keep the certification as a part of the permanent record of the commission.

**Section 2.** Every proposal to make a sale covered by this act shall be publicly advertised for four consecutive weeks in a newspaper of county-wide circulation and advertised one time in a newspaper of state-wide circulation not less than seven days in advance of the date fixed for closing the receipt of bids. The

advertisements shall state a description of the property to be sold along with the date, time and place of opening of the sealed bids.

**Section 3.** All bids shall be publicly owned and all bidders shall be entitled to be present at the bid opening in person or by representative. Any agreement or collusion among bidders or prospective bidders or any other person in restraint of freedom of competition, by any agreement to bid at a fixed price or to refrain from bidding, shall render the bids of such bidders void and shall cause such bidders to be disqualified from submitting further bids on the sale. Any disclosure prior to opening the sealed bids or the terms of a bid shall render the proceedings void.

**Section 4.** All proceeds from the sale or other disposition of the property under this act shall be deposited in the fund of the district owning the property or the general fund of the county, if the property was owned by the county.

**Section 5.** Anyone who knowingly violates any provision of this act shall be guilty of a Class B felony and upon conviction shall be fined up to \$15,000 and may be imprisoned in the state penitentiary for up to seven years.

**Section 6.** Any taxpayer of the area within the jurisdiction of the county and any bona fide unsuccessful bidder on a particular contract shall be empowered to bring a civil action in the appropriate court to enjoin execution of any contract entered into in violation of the provisions of this act.

**Section 7.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-520

H. 1057—Blake

## AN ACT

Relating to St. Clair County; providing for an additional allowance for election

officials who work at polling places.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In St. Clair County, election officials who work at polling places are hereby entitled to an additional per diem allowance in such an amount as will, together with any amount paid by the state make the total paid to such officials twenty-five dollars (\$25.00) for each day they work at the polls. If the amount paid to such officials as compensation or expense allowance by the state increases in the future, then the amount paid by the county under this Act shall automatically decrease in a like amount. In addition, said election officials shall be entitled to a mileage allowance at the same rate as the mileage allowance allowed state employees. The expense allowances provided for in this Act shall be paid from the general fund of the county.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-521

H. 1071—Owens

### AN ACT

Relating to selling and redeeming lands for taxes in Bibb County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this Act shall apply to Bibb County.

**Section 2.** The procedure for selling and redeeming lands for taxes in such county shall be the same as provided in Code of Alabama 1975, Title 40, amended, except that all such duties as are required of and are performed by the Judge of Probate shall be transferred to and be performed by the Tax Collector of said County, and the Judge of Probate shall be relieved of all such duties.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are repealed.

**Section 5.** This act shall take effect on the first day of the month next following the date of its enactment, but it shall not affect proceedings that were begun before such date.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-522

H. 1072—Owens

**AN ACT**

Relating to Bibb County; to provide for the expense allowance of the coroner.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The coroner of Bibb County shall receive an expense allowance of \$150 per month payable out of the county general fund. The expense allowance provided by this act shall be in lieu of any and all other fees, compensation or expense allowances with the exception of any mileage allowance, heretofore provided by law.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-523

H. 1078—Minus, Manley

**AN ACT**

Relating to Sumter County; to provide for a \$100 expense allowance in lieu of mileage to be paid monthly to the members of the Sumter County Board of Education.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The members of the Sumter County Board of Education shall each receive a \$100 per month expense allowance in lieu of any mileage allowance previously provided by law. Such expense allowance shall be paid out of the public school funds of the county.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-524

H. 1082—Clark (G)

### AN ACT

Relating to Greene County; providing for an additional allowance for election officials who work at polling places.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Greene County, election officials who work at polling places are hereby entitled to an additional per diem allowance in such an amount as will, together with any amount paid by the state make the total paid to such officials thirty dollars (\$30.00) for each day they work at the polls. If the amount paid to such officials as compensation or expense allowance by the state increases in the future, then the amount paid by the county under this act shall automatically decrease in a like amount. The expense allowance provided for in this act shall be paid from the general fund of the county.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-525

H. 1090—Reed

## AN ACT

To exempt the Bullock County Health Services, Inc., from the payment of all county and municipal sales and use taxes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Bullock County Health Services, Inc., is hereby exempted from paying any county or municipal sales or use taxes.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-526

H. 1091—Reed

## AN ACT

To exempt the Bullock County Ambulance Service, Inc., from the payment of all county and municipal sales and use taxes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Bullock County Ambulance Service, Inc., is hereby exempted from paying any county or municipal sales or use taxes.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-527

H. 654—Bennett

## AN ACT

To fix the compensation or salary of the treasurer of any county having a population of 600,000 or more according to the last federal census or any subsequent federal census, and to provide for the payment thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This Act shall apply in all counties having a population of 600,000 or more according to the last or any subsequent federal census.

**Section 2.** The treasurer of any county having a population of 600,000 or more shall receive a salary of Twenty-seven Thousand Five Hundred (\$27,500.00) per annum, which salary shall be paid out of the county treasury of said county in equal monthly installments or equal bi-weekly installments.

**Section 3.** The salary provided for by this Act shall become effective upon the expiration of the term which the county treasurer is serving at the time whereat this Act becomes applicable to the county.

**Section 4.** All laws or parts of laws in conflict with this Act are hereby repealed.

**Section 5.** If any provision of this Act is held unconstitutional or ineffective, such holding shall not affect any other provision.

**Section 6.** This Act shall become effective upon approval by the Governor or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-528

H. 1038—Minus

## AN ACT

Relating to Choctaw County; to provide for an advisory only referendum on the question of the manner of selection of the county superintendent of education.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Choctaw County Commission shall provide for and hold a referendum on the date of the next general election to ascertain the sentiment of the voters of the county on the question of whether the county superintendent of education shall be elected or appointed by the county board of education. Such referendum shall

be advisory only.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-529

H. 440—Sasser

### AN ACT

To be known as the Alcoholic Beverage Licensing Code; to further regulate and control alcoholic beverage transactions in wet counties in Alabama under the control and supervision of the alcoholic beverage control board; to authorize the board to license others to engage in alcoholic beverage transactions in accordance with the provisions of this Code; to provide for application for, and the issuance and renewal of, and regulation of the grant of licenses; to authorize the sale of alcoholic beverages by the licensees of the board; to impose, levy and authorize state, county and municipal license fees for engaging in manufacture, warehousing, import, wholesale or retail sale of alcoholic beverages; to prescribe penalties including suspension or revocation of licenses and fines against licensees for violation of laws relating to manufacture, sale, possession or transportation of alcoholic beverages and of regulations of the board; to proscribe unlawful acts and offenses and to provide for punishment therefor; and to repeal laws or parts of laws in conflict herewith.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Short Title.—This Act shall be known and may be cited as “Alcoholic Beverage Licensing Code.”

**Section 2.** Definitions:—The following words or phrases, whenever they appear in this Code, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section:

(a) **ALCOHOLIC BEVERAGES.** Any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine.

(b) **ASSOCIATION.** A partnership, limited partnership, or any form of unincorporated enterprise owned by two or more persons.

(c) **BEER.** Any beer, lager beer, ale, porter, malt or brewed beverage or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume and not in excess of four percent alcohol by weight and five percent by volume, by whatever name the same may be called.

(d) **BOARD.** The Alcoholic Beverage Control Board.

(e) **CARTON.** The package of container or containers in which alcoholic beverages are originally packaged for shipment to market by the manufacturer or its designated representatives or the importer. **CONTAINER.**—The single bottle, can, keg, bag or other receptacle, not a carton, in which alcoholic beverages are originally packaged for the market by the manufacturer or importer and from which the alcoholic beverage is consumed by or dispensed to the public.

(f) **CLUB.** A corporation or association organized or formed in good faith by authority of law and which must have at least 150 paid-up members. It must be the owner, lessee or occupant of an establishment operated solely for the objects of a national, social, patriotic, political or athletic nature or the like, but not for pecuniary gain, and the property as well as the advantages of which belong to all the members and which maintains an establishment provided with special space and accommodations where, in consideration of payment, food with or without lodging is habitually served. The club shall hold regular meetings, continue its business through officers regularly elected, admit members by written application, investigation and ballot and charge and collect dues from elected members.

(g) **CORPORATION.** A corporation or joint stock association organized under the laws of this state, the United States, or any other state, territory or foreign country, or dependency.

(h) **DRY COUNTY.** Any county which by a majority of those voting voted in the negative in an election heretofore held under the applicable statutes at the time of said election or may hereafter vote in the negative in an election or special method referendum hereafter held in accordance with the provisions of Chapter 2 of the Code of Alabama 1975 or held in accordance with the provisions of any act hereafter enacted permitting such election.

(i) **DRY MUNICIPALITY.** Any municipality within a wet county which has, by its governing body or by a majority of those voting in a municipal election heretofore held in accordance with

the provisions of §28-2-22, Code of Alabama 1975, or in a municipal option election heretofore or hereafter held in accordance with the provisions of any act heretofore or hereafter enacted permitting municipal option election, voted to exclude the sale of alcoholic beverages within the corporate limits of said municipality.

(j) **GENERAL WELFARE PURPOSES.** (1) The administration of public assistance as set out in §§ 38-2-5 and 38-4-1, Code of Alabama 1975; (2) services, including supplementation and supplementary services under the Federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under said §§ 38-2-5 and 38-4-1, Code of Alabama 1975; (3) service to and on behalf of dependent, neglected or delinquent children; and (4) investigative and referral services to and on behalf of needy persons.

(k) **HEARING COMMISSION.** A body appointed by the board to hear and decide all contested license applications and all disciplinary charges against any licensee for violation of this Act or the regulations of the board.

(l) **HOTEL.** A building or buildings held out to the public for housing accommodations of travelers or transients, and shall include motel, but shall not include a rooming house or boarding house.

(m) **IMPORTER.** Any person, association or corporation engaged in importing alcoholic beverages, liquor, wine or beer, manufactured outside of the United States of America into this state or for sale or distribution in this state, or to the board or to a licensee of the board.

(n) **LIQUOR.** Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, fermented, vinous or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, except beer.

(o) **LIQUOR STORE.** A liquor store operated by the board, where alcoholic beverages other than beer are authorized to be sold in unopened containers.

(p) **MANUFACTURER.** Any person, association or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying or compounding of alcoholic beverages, liquor, beer or wine in this state or for sale or distribution in this state or to the board or to a licensee of the board.

(q) **MINOR.** Any person under nineteen years of age.

(r) **MUNICIPALITY.** Any incorporated city or town of this state.

(s) **PERSON.** Every natural person, association or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment, or both, such term as applied to "association" shall mean the partners or members thereof and as applied to "corporation" shall mean the officers thereof, except as to incorporated clubs the term "person" shall mean such individual or individuals who, under the bylaws of such clubs, shall have jurisdiction over the possession and sale of liquor therein.

(t) **POPULATION.** The population according to the last preceding or any subsequent decennial census of the United States, except where a municipality is incorporated subsequent to the last census, in which event, its population until the next decennial census shall be the population of said municipality as determined by the judge of probate of said county as the official population on the date of its incorporation.

(u) **RESTAURANT.** A reputable place licensed as a restaurant, operated by a responsible person of good reputation and habitually and principally used for the purpose of preparing and serving meals for the public to consume on the premises.  
**MEAL.** A diversified selection of food some of which is not susceptible of being consumed in the absence of at least some articles of tableware and which cannot be conveniently consumed while one is standing or walking about.

(v) **RETAILER.** Any person licensed by the board to engage in the retail sale of any alcoholic beverages to the consumer.

(w) **SALE or SELL.** Any transfer of liquor, wine or beer for a consideration, and any gift in connection with, or as a part of, a transfer of property other than liquor, wine or beer for a consideration.

(x) **UNOPENED CONTAINER.** A container containing alcoholic beverages, which has not been opened or unsealed subsequent to filling and sealing by the manufacturer or importer.

(y) **WET COUNTY.** Any county which by a majority of those voting voted in the affirmative in an election heretofore held in accordance with the statutes applicable at the time of said election or may hereafter vote in the affirmative in an election or special method referendum held in accordance with the provisions of Chapter 2 of Title 28, Code of Alabama 1975 or other statutes

applicable at the time of said election.

(aa) **WHOLESALE.** Any person licensed by the board to engage in the sale and distribution of table wine and beer, or either of them, within this state, at wholesale only, to be sold by export or to retail licensees or other wholesale licensees or others within this state lawfully authorized to sell table wine and beer, or either of them, for the purpose of resale only. Provided further that any person licensed under this subsection shall be authorized to sell keg beer, where lawful, at retail for off-the-premises consumption.

(ab) **WINE.** All beverages made from the fermentation of fruits, berries, or grapes, with or without added spirits, and produced in accordance with the laws and regulations of the United States, containing not more than twenty-four (24) percent alcohol by volume, and shall include all sparkling wines, carbonated wine, special natural wines, rectified wines, vermouths, vinous beverages, vinous liquors, and like products. **FORTIFIED WINE.** Any wine containing more than fourteen (14) percent alcohol by volume but not more than twenty-four (24) percent. **TABLE WINE.** Any wine containing not more than fourteen (14) percent alcohol by volume.

**Section 3.** Licenses to engage in alcoholic beverage transactions.—Subject to the provisions of this Code and regulations promulgated thereunder, the board is authorized and empowered to issue and renew licenses to reputable and responsible persons for the following purposes:

(a) To manufacture, brew, distill, ferment, rectify, bottle or compound any or all alcoholic beverages within or for sale within this state.

(b) To import any or all alcoholic beverages manufactured outside the United States of America into this state or for sale or distribution within this state.

(c) To distribute, wholesale or act as jobber for the sale of alcoholic liquor.

(d) To distribute, wholesale or act as jobber for the sale of table wine and beer or either of them, to licensed retailers within the state and others within this state lawfully authorized to sell table wine or beer.

(e) To store or warehouse any or all alcoholic beverages for trans-shipment inside and outside the state.

(f) To sell and dispense at retail in a lounge, liquor and other alcoholic beverages.



(g) To sell and dispense at retail in an establishment habitually and principally used for the purpose of providing meals for the public, liquor and other alcoholic beverages for on-premises consumption.

(h) To sell liquor and wine at retail for off-premises consumption.

(i) To sell and dispense at retail in a club, liquor and other alcoholic beverages for on-premises consumption.

(j) To sell table wine at retail for off-premises consumption.

(k) To sell table wine at retail for on-premises and off-premises consumption.

(l) To sell beer at retail for on-premises and off-premises consumption.

(m) To sell beer at retail for off-premises consumption.

(n) To sell liquor and other alcoholic beverages at retail by retail common carrier with a passenger capacity of at least 10 people.

(o) To sell any or all alcoholic beverages at retail under special license issued conditioned upon terms and conditions and for the period of time prescribed by the board.

(p) To sell any or all alcoholic beverages at retail under a special event retail license issued for three days upon the terms and conditions prescribed by the board.

Provided, however, that such licenses may not be issued in dry counties where traffic in alcoholic beverages is not authorized by law therein. Provided the restriction of this paragraph shall not apply to the issuance of a license under subsection (a) where the county is wet when the initial manufacturer's license was issued and the county subsequently votes dry.

The board is granted broad discretionary powers in acting upon license applications under the provisions of this Code.

Licenses issued under this Code shall, unless revoked or suspended in the manner provided in this Code, be valid for the license year which shall begin on the 1st day of October of each year, unless otherwise established by this Code or by the board. Licenses may be issued at any time during the year.

**Section 4. License application.**—Every applicant for an original license issued under this Code shall file a written application with the board in such form and containing such

information as the board may prescribe, which shall be accompanied by a non-refundable filing fee of \$50.00, and by the appropriate license fee as prescribed by this Code, together with the amount or amounts of the prescribed license fee or fees, if any, levied or imposed by the county governing body.

**Section 5. Issuance and Renewal.**—Upon receipt of the application, the proper fees, the bond if required, and upon being satisfied of the truth of the statements in the application and that the applicant is a person of good repute, the board shall grant and issue to applicant the appropriate license entitling the applicant to engage in the alcoholic beverage transactions authorized by such license as set forth in this Code. All applications for licenses and accompanying statements shall be kept in the office of the board for a period of three years and shall be open for public inspection.

Licenses issued under the provisions of this Code shall be renewed annually upon the filing of applications, in such form as the board shall prescribe, at least sixty days before the expiration and upon payment to the board of the appropriate license fees, unless the board has good cause for not renewing or reissuing the license. Unless within one month prior to the scheduled date of expiration of such licenses the applicant shall have been notified by the board of objections to the granting thereof signed by persons authorized to do so, and upon payment of the required fees, the board shall issue such renewal of licenses.

Licenses shall become due and payable on or before October first of each year or on the date established by this Code or the board for the ensuing year, and shall be delinquent if not secured each year by October twentieth or the twentieth day of the first month of the license year established by this Code or the board. If the license is not secured by October twentieth or by the twentieth day of the first month of the license year established by this Code or by the board, such person or firm failing or refusing to file application and obtain said license, as provided in this Act, while continuing to enjoy the privilege allowed under said license, shall be subject to a penalty of fifty percent of the state and county licenses and filing fees, which penalty must be collected at the time of issuance of license or permit, and shall be paid into the license fund of the board. Unless previously revoked, every license issued by the board under this Code shall expire, and terminate on the thirtieth day of September in the year or on the last day of the month ending the license year established by this Code or by the board for which the license is issued.

No license shall be issued or renewed by the board until the filing and license fees fixed by this Code shall have been paid to the

board; provided no filing fee is required for renewal.

**Section 6. Manufacturer License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board shall issue to applicant a manufacturer license which shall authorize the licensee to manufacture or otherwise distill, produce, ferment, brew, bottle, rectify or compound alcoholic beverages within this state or for sale or distribution within this state. No person shall manufacture or otherwise distill, produce, ferment, brew, bottle, rectify or compound alcoholic beverages within this state or for sale or distribution within this state or to the state, the board, or any licensee of the board, unless such person or his authorized representative shall be granted a manufacturer license issued by the board.

No manufacturer licensee shall sell any alcoholic beverages direct to any retailer or for consumption on the premises where sold, nor sell or deliver any such alcoholic beverages in other than original containers approved as to capacity by the board and in accordance with standards of fill prescribed by the U.S. Treasury Department, nor maintain or operate within the state any place or places, other than the place or places covered by the manufacturer license, where alcoholic beverages are sold or where orders are taken.

Each manufacturer licensee shall be required to file with the board, prior to making any sales in Alabama a list of its labels to be sold in Alabama and shall file with the board its Federal Certificate of label approvals or its certificates of exemption as required by the U.S. Treasury Department. All liquors and wines whose labels have not been registered as herein provided for shall be considered contraband and may be seized by the board or its agents, or any peace officer of the State of Alabama without a warrant and said goods shall be delivered to the board and disposed of as provided by law.

All such manufacturer licensees shall be required to mail to the board prior to the twentieth day of each month a consolidated report of all shipments of beer and table wine made to each wholesaler during the preceding month. Such reports shall be in such form and containing such information as the board may prescribe.

Every manufacturer shall keep at his or its principal place of business within the state, daily permanent records which shall show the quantities of raw materials received and used in the manufacture of alcoholic beverages, and the quantities of alcoholic

beverages manufactured and stored, the sale of alcoholic beverages, the quantities of alcoholic beverages stored for hire or transported for hire by or for the licensee and the names and addresses of the purchasers or other recipients thereof. Every place licensed as a manufacturer shall be subject to inspection by members of the board or by persons duly authorized and designated by the board at any and all times of the day or night as they may deem necessary, for the detection of violations of this Code, of any law, or of the rules and regulations of the board, or for the purpose of ascertaining the correctness of the records required to be kept by the licensees. The books and records of such licensees shall, at all times, be open to inspection by members of the board, or by persons duly authorized and designated by the board. Members of the board and its duly authorized agents shall have the right, without hindrance, to enter any place which is subject to inspection hereunder, or any place where such records are kept for the purpose of making such inspections and making transcripts thereof.

Licenses issued under this section shall, unless revoked in the manner provided in this Code, be valid for the license year commencing January 1 of each year.

**Section 7. Importer License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board shall issue to applicant an importer license which shall authorize the licensee to import alcoholic beverages manufactured outside the United States of America into this state or for sale or distribution within this state of liquor and wine to the board or the state, and table wine and beer to wholesaler licensees of the board. No person shall import alcoholic beverages manufactured outside the United States into this state or for sale or distribution within this state or to the state, the board or any licensee of the board, unless such person shall be granted an importer license issued by the board.

An importer licensee shall not sell any alcoholic beverages for consumption on the premises where sold; nor, unless issued a wholesale license, sell or deliver to any retailer; nor deliver any such alcoholic beverages in other than original containers approved as to capacity by the board, and in accordance with standards of fill prescribed by the U.S. Treasury Department; nor maintain or operate within the state any place or places, other than the place or places covered by his or its importer license, where alcoholic beverages are sold or where orders are taken.

Each importer licensee shall be required to file with the board, prior to making any sales in Alabama, a list of its labels to be sold in

Alabama and shall file with the board its Federal Certificate of label approvals or its certificates of exemption as required by the U.S. Treasury Department. All liquors and wines whose labels have not been registered as herein provided for shall be considered contraband and may be seized by the board or its agents, or any peace officers of the State of Alabama, without a warrant and said good shall be delivered to the board and disposed of as provided by law.

All such importer licensees shall be required to mail to the board prior to the twentieth day of each month a consolidated report of all shipments of beer and table wine made to each wholesaler during the preceding month and of all shipments of alcoholic beverages received during the preceding month. Such reports shall be in such form and containing such information as the board may prescribe.

The books and records of such licensee shall, at all times, be open to inspection by members of the board, or by persons duly authorized and designated by the board. Members of the board and its duly authorized agents shall have the right, without hindrance, to enter any place which is subject to inspection hereunder, or any place where such records are kept for the purpose of making such inspections and making transcripts thereof.

Licenses issued under this section shall, unless revoked or suspended in the manner provided in this Act, be valid for the license year commencing January 1 of each year.

**Section 8. Liquor Wholesaler License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board shall issue to applicant a liquor wholesale license which shall authorize the licensee to import and receive shipments of liquor or wine from outside the state from licenses manufacturers and to sell at wholesale or distribute liquor or wine to the board or as authorized by the board except a liquor wholesale licensee may not sell liquor or fortified wine to retail licensees of the board. Sales shall be in original packages or containers as prepared for the market by the manufacturer or bottler. No person shall sell at wholesale or distribute liquor or wine within this state to the board or as authorized by the board unless such person shall be issued a liquor wholesale license by the board.

**Section 9. Wholesaler License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board shall issue to applicant a wholesale license which shall authorize the licensee to import and receive shipments of beer and table wine from outside the state from

licensed manufacturers, to purchase beer and table wine from licensed manufacturers or other licensed wholesalers within the state and to sell at wholesale or distribute beer and table wine to all licensees or others within this state lawfully authorized to sell beer and wine within said state, and to export beer and wine from the state. Sales to all authorized persons shall be in original packages or containers as prepared for the market by the manufacturer or bottler. No person shall sell at wholesale or distribute beer or table wine within this state or to licensees of the board unless such person shall be issued a wholesale license by the board.

**Section 10. Warehouse License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board shall issue to applicant a warehouse license which will authorize the licensee to receive, store or warehouse alcoholic beverages within the state for trans-shipment inside and outside the state. No person other than a manufacturer or wholesale licensee shall receive, store or warehouse alcoholic beverages with the state for trans-shipment inside and outside the state without first obtaining a warehouse license from the board.

**Section 11. Lounge Retail Liquor License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board shall, where the application is accompanied by a certificate from the clerk or proper officer setting out that the applicant has presented his application to the governing authority of the municipality, if the licensed premises is to be located therein, and has obtained its consent and approval, issue a retail liquor license which will authorize the licensee to purchase liquor and wine from the board or as authorized by the board and to purchase table wine, and beer, including draft or keg beer in any county or municipality in which the sale thereof is permitted, from any wholesaler licensee of the board and to sell at retail liquor and wine, dispensed from containers of any size, and beer, including draft or keg beer in any county or municipality in which the sale thereof is permitted, to patrons. A lounge liquor licensee may permit dancing or provide other lawful entertainment on the licensed premises. No person under nineteen years of age shall be admitted on the premises of any lounge liquor licensee as a patron or employee, and it shall be unlawful for any such licensee to admit any minor to the premises as a patron or employee.

**Section 12. Club Liquor Retail License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board may, where the application is accompanied by a certificate from the clerk or proper officers

setting out that the applicant has presented his application to the governing authority of the municipality, if the licensed premises is to be located therein, and has obtained its consent and approval, issue a club liquor license for a club which will authorize the licensee to purchase liquor and wine from the board or as authorized by the board and to purchase table wine and beer, including draft or keg beer in any county or municipality in which the sale thereof is permitted, from any wholesale licensee of the board and to sell liquor and wine, dispensed from containers of any size, and beer, including draft or keg beer, in any county or municipality in which the sale thereof is permitted, to the members of the club or their guests for on-premises consumption and to sell all of the above for off premises consumption except on Sunday.

**Section 13. Restaurant Retail Liquor License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board shall, where the application is accompanied by a certificate from the clerk or proper officer setting out that the applicant has presented his application to the governing authority of the municipality, if the licensed premises is to be located therein, and has obtained its consent and approval issue a restaurant liquor license for a hotel, restaurant, civic center authority or dinner theater which will authorize the licensee to purchase liquor and wine from the board or as authorized by the board and to purchase table wine and beer, including draft or keg beer in any county or municipality in which the sale thereof is permitted, from any wholesale licensee of the board and, in that part of the hotel, restaurant, club or dinner theater set out in the license, to sell liquor and wine, dispensed from containers of any size, and beer, including draft or keg beer, in any county or municipality in which the sale thereof is permitted, to the patrons, guests or members for on-premises consumption in any part of the civic center or in that part of the hotel, restaurant or dinner theater habitually used for serving meals to patrons, guests or members, or other public or private rooms of the building in accordance with the provisions of this Code and the regulations made thereunder, and where a restaurant located in a hotel, but not operated by the owner of the hotel, is licensed to sell alcoholic beverages in the restaurant, it may also sell alcoholic beverages to guests in private rooms in the hotel.

**Section 14. Retail table wine license for on-premises consumption.**—Upon applicant's compliance with the provisions of this Act and the regulations made thereunder, the board shall issue to applicant a retail table wine license which will authorize the licensee to purchase table wine from the board or from a licensed wholesaler in counties and municipalities where authorized, and to

sell at retail, in unopened original containers or dispense from containers of any size, for on-premises consumption in a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public, and in original unopened containers for off-premises consumption, where such use of the proposed location is not, at the time of the original application, prohibited by a valid zoning ordinance or other ordinance in the valid exercise of police power by the governing body of the municipality or county in which the outlet is located.

**Section 15.** Retail table wine license for off-premises consumption.—Upon applicant's compliance with the provisions of this Act and the regulations made thereunder, in counties and municipalities where authorized, the board shall issue a retail table wine license for any retail outlet, which license will authorize the licensee to purchase table wine in packaged form from the board, or from licensed wholesalers and to sell such table wines in original unopened containers at retail for off-premises consumption, where such use of the proposed location of the retail outlet is not, at the time of original application, prohibited by a valid zoning ordinance or other ordinance in the valid exercise of police power by the governing body of the municipality or county in which the retail outlet is located.

**Section 16.** Retail beer license for on-premises consumption.—Upon applicant's compliance with the provisions of this Act and the regulations made thereunder, the board shall issue to applicant a retail beer license which will authorize the licensee to purchase beer, including draft beer in counties or municipalities where the sale thereof is permitted, from a licensed wholesaler and to sell the same at retail for on-premises consumption in a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public, and in original unopened containers for off-premises consumption, where such use of the proposed location is not, at the time of the original application, prohibited by a valid zoning ordinance or other ordinance in the valid exercise of police power by the governing body of the municipality or county in which the outlet is located.

**Section 17.** Retail beer license for off-premises consumption.—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board shall issue to applicant a retail beer license which will authorize the licensee to purchase beer, including draft beer in counties or municipalities where the sale thereof is permitted, in original unopened containers from licensed wholesalers and to sell such beer in packaged form at retail for off-premises consumption,



where such use of the proposed location is not, at the time of the original application, prohibited by a valid zoning ordinance or other ordinance in the valid exercise of police power by the governing body of the municipality or county in which the retail outlet is located.

**Section 18. Retail Common Carrier Liquor License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board shall issue a retail common carrier liquor license for a railroad, airline, bus line, ship line, vessel or other common carrier entity operating passenger vehicles with a passenger seating capacity of at least ten people, which will authorize the licensee to sell, whenever operated in Alabama, alcoholic beverages, liquor, wine and beer, including draft beer, to passengers for consumption while aboard such licensee. No railroad, airline, bus line, ship line, vessel or common carrier entity shall sell alcoholic beverages to passengers for consumption within this state without first obtaining a retail common carrier liquor license from the board.

Sales within Alabama of alcoholic beverages by retail common carrier liquor licensees shall be made in accordance with and shall be subject to the provisions of this Code and regulations promulgated thereunder.

**Section 19. Special Retail License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, the board shall issue a special retail license in wet counties for a state park, racing commission, fair authority, airport authority, or civic center authority, or the franchises or consessionaire of such park, commission or authority, and may, in its discretion, issue a special retail license to any other valid responsible organization of good reputation for such period of time not to exceed one year and upon such terms and conditions as the board shall prescribe, which will authorize the licensee to purchase, where the retail sale thereof is authorized by the board, liquor and wine from the board or as authorized by the board and table wine and beer from any wholesale licensee of the board and to sell at retail and dispense such alcoholic beverages as are authorized by the board at such locations authorized by the board upon such terms and conditions as prescribed by the board. Provided, however, no sale of alcoholic beverages shall be permitted on any Sunday after the hour of 2:00 a.m.

**Section 20. Special Events Retail License.**—Upon applicant's compliance with the provisions of this Code and the regulations made thereunder, and upon application made on form provided by the board at least 120 days in advance of the event for

which a license is granted, the board shall issue a special events license for a valid, responsible organization of good reputation, for a period not to exceed seven days, and upon such terms and conditions as the board may prescribe, which will authorize the license to purchase, where the retail sale thereof is authorized by the board, liquor and wine from the board or as authorized by the board and table wine and beer from any wholesale licensee of the board and to sell at retail and dispense such alcoholic beverages as are authorized by the board to the patrons, guests or members of the organization at such locations or areas as shall be authorized by the board upon such terms and conditions as prescribed by the board. Provided, however, no sale of alcoholic beverages shall be permitted on any Sunday after the hour of 2:00 a.m.

**Section 21. License Fees for Licenses Issued by the Board.—**The following annual license fees are levied and prescribed for licenses issued and renewed by the board pursuant to the authority contained in this Code:

- (a) Manufacturer license, license fee of \$500.
- (b) Importer license, license fee of \$500.
- (c) Liquor wholesale license, license fee of \$500.
- (d) Wholesaler license, beer license fee of \$550 or wine license fee of \$550; license fee for beer and wine of \$750; plus \$200 for each warehouse in addition to the principal warehouse.
- (e) Warehouse license, license fee of \$200.
- (f) Lounge retail liquor license, license fee of \$300.00
- (g) Restaurant retail liquor license, license fee of \$300.00.
- (h) Club liquor license, license fee of \$750.
- (i) Retail table wine license for off-premises consumption, license fee of \$150.
- (j) Retail table wine license for on-premises and off-premises consumption, license fee of \$150.
- (k) Retail beer license for on-premises and off-premises consumption, license fee of \$150.
- (l) Retail beer license for off-premises consumption, license fee of \$100.
- (m) Retail common carrier liquor license, license fee of \$150 for each railroad, airline, bus line, ship line, vessel or other common carrier entity with a vehicle passenger capacity of at least 10

people.

(n) Special retail license, license fee of \$100 for 30 days or less; license fee of \$250 for more than 30 days.

(o) Special events retail license, license fee of \$150.

The license fees levied and fixed by this section shall be paid before the license is issued or renewed.

In addition to the foregoing filing fee and license taxes or fees, any county or municipality in which the sale of alcoholic beverages is permitted shall be authorized to fix and levy privilege or license taxes on any of the foregoing licensees located or operating therein, conditioned on a permit or license being issued by the Board.

No county or municipality shall have any authority to levy a license or tax of any nature on any liquor store.

**Section 22.** Disposition of filing fees and license taxes.—The revenue derived from filing fees, license fees or taxes levied under Section 4 and Section 21 of this Code shall be deposited upon receipt by the board in the state treasury to the credit of the beer tax and license fund and each month's receipts shall be distributed to the state general fund not later than the end of the following month.

County license fees authorized by and levied pursuant to Section 21 of this Code shall be collected by the board and the proceeds of such collections shall be paid by the board into the state treasury to the credit of the county levying said license fee and paid semi-annually to the governing body of said county.

**Section 23.** Regulation of the grant of licenses.—No license prescribed in this Code shall be issued or renewed until the provisions of this Code have been complied with and the filing and license fees other than those levied by a municipality are paid to the board.

Licenses shall be granted and issued by the board only to reputable individuals who are citizens of the United States or to associations whose members are reputable individuals who are citizens of the United States, or to reputable corporations organized under the laws of the State of Alabama or duly qualified thereunder to do business in Alabama, or, in the case of manufacturers, duly registered under the laws of Alabama, and then only when it appears that all officers and directors of the corporation are reputable individuals and are citizens of the United States, and that at least fifty-one percent of the capital stock is actually owned by individuals who are citizens of the United States. In addition to the foregoing requirements, wholesale licenses shall be granted only to

individuals who are residents of this state or to associations at least one of whose partners or associates owning a substantial interest in the association is a resident of this state or a corporation which has at least 51% of its capital stock actually owned by resident individuals of this state. Provided, the residence or citizenship requirements of this paragraph do not apply to manufacturer licensees.

Every license issued under this Code shall be constantly and conspicuously displayed on the licensed premises.

Each retail liquor license application must be approved by the governing authority of the municipality if the retailer is located in a municipality, or by the county commission if the retailer is located in the county and outside the limits of the municipality before the board shall have authority to grant the license.

Any retailer may be granted licenses to maintain, operate or conduct any number of places for the sale of alcoholic beverages, but a separate license must be secured for each place where alcoholic beverages are sold. No retail license issued under this Code shall be used for more than one premise, nor for separate types of operation on the same premise. Each premise must have a separate retail license. Where more than one retail operation is located within the same building, each such operation under a separate or different ownership is required to obtain a separate retail license; and where more than one type of retail operation located within the same building is operated by the same licensee, such licensee must have a license for each type of retail operation. Provided, there shall be no licenses issued by the board for the sale of liquor, beer or wine by rolling stores.

No retailer shall sell any alcoholic beverages for consumption on the licensed premises except in a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public; but this section shall not be interpreted to prevent a hotel or club licensee from selling such beverages in any room of such hotel or club house occupied by a bona fide registered guest or member or private party entitled to purchase the same.

All beer, except draft or keg beer, sold by retailers must be sold or dispensed in bottles, cans or other containers not to exceed one pint or sixteen ounces. All wine sold by retailers for off-premises consumption must be sold or dispensed in bottles or other containers in accordance with the standards of fill specified in the then effective Standards of Fill for Wine prescribed by the U.S. Treasury Department.

Draft or keg beer may be sold or dispensed within this state within those counties in which and in the manner in which the sale of draft or keg beer was authorized by law upon the effective date of this Code or in which the sale of draft or keg beer is hereafter authorized by law; provided in rural communities with a predominantly foreign population, after the payment of the tax imposed by Title 28, Code of Alabama 1975, draft or keg beer may be sold or dispensed by special permit from the board, when, in the judgment of the board, the use and consumption of draft or keg beer is in accordance with the habit and customs of the people of any such rural community. Provided further the board may, in its discretion, grant to any civic center authority or its franchisee or concessionaire, to which the board may have issued or may simultaneously issue a retail license under the provisions of this Code, a revocable temporary permit to sell or dispense in any part of its civic center for consumption therein, draft or keg beer. Either such permit shall be promptly revoked by the board if, in its judgment, the same tends to create intemperance or is prejudicial to the welfare, health, peace, temperance and safety of the people of the community or of the state.

No wholesaler shall maintain or operate any place where sales are made other than that for which the wholesale license is granted; provided, however, a wholesaler may be licensed to sell and distribute liquor, wine and beer. No wholesaler shall maintain any place for the storage of liquor, wine or beer unless the same has been approved by the board. No wholesaler license shall be issued for any premises in any part of which there is operated any retail license for the sale of alcoholic beverages.

Licenses issued under this Code may not be assigned. The board is hereby authorized to transfer any license from one person to another, or from one place to another within the same governing jurisdiction, or both, as the board may determine; but no transfers shall be made to a person who would not have been eligible to receive the license originally, nor for the transaction of business at a place for which the license could not originally have been issued lawfully.

Every applicant for a transfer of license shall file a written application with the board within such time as the board shall fix in its regulations. Whenever any license is transferred, there shall be collected a filing fee of \$50.00, to be paid to the board, and the board shall pay such fee into the state treasury to the credit of the beer tax and license fund of the board.

In the event that any person to whom a license shall have been issued under the terms of this Act shall become insolvent, make an

assignment for the benefit of creditors, be adjudicated a bankrupt by either voluntary or involuntary action, the license of such person shall immediately terminate and be cancelled without any action on the part of the board, and there shall be no refund made, or credit given, for the unused portion of the license fee for the remainder of the license year for which said license was granted. Thereafter no license shall be issued by the board for the premises, wherein said license was conducted, to any assignee, committee, trustee, receiver or successor of such licensee until a hearing has been held by the board as in the case of a new application for license. In all such cases, the board shall have the sole and final discretion as to the propriety of the issuance of a license for such premises, and the time it shall issue, and the period for which it shall be issued, and shall have the further power to impose conditions under which said licensed premises shall be conducted.

**Section 24.** Suspension or revocation of licenses and fines against licensees.—The board shall have full and final authority as to the suspension or revocation of any license issued under this Code and to levy a fine against a licensee in lieu of such suspension or revocation. The board shall have the full right and authority to suspend any retail license issued by it for any reason which it may deem sufficient and proper.

Provided, however, the board may appoint a hearing commission of not less than three members to hear and decide all contested applications of licenses under this Code, and hear and decide all charges against any licensee for violation of this Code, the law or the regulations of the board and shall have the power and authority to revoke or suspend for cause licenses and permits, or to fine licensees provided in this Code. Provided no member of the hearing commission shall participate in the hearing or disposition of any application for license or charge against a licensee if he has an interest therein or he was involved in the investigation.

The board or a hearing commission appointed by the board, upon sufficient cause being shown or proof being made that any licensee holding a license issued by the board, or any partners, members, officers, or directors of the licensee has or have violated any of the laws of this state or regulations of the board relating to the manufacture, sale, possession or transportation of alcoholic beverages, or where the licensed premises has been conducted in a manner prejudicial to the welfare, health, peace, temperance and safety of the people of the community or of the state, may upon due notice and proper hearing being given to the person so licensed, suspend or revoke the license issued by the board. In all such cases where the board or hearing commission shall suspend or revoke a

license, it shall set forth its findings of fact, the evidence from which such findings of fact are made, and the reasons upon which its actions are based.

When, in the opinion of the board or hearing commission, a fine is deemed more appropriate than suspending or revoking a license, the board or hearing commission is authorized to fine the licensee for any cause that could result in suspension or revocation. Such fines may not exceed the sum of \$1,000. The licensee must remit the fine to the administrator within one week of the day that such fine is levied. Failure to pay the fine within this period shall result in an automatic suspension of the license until such fine is paid. All fines collected by the board shall be paid by the administrator into the treasury of the state and credited to the general fund.

The maximum length of suspension of a license under these provisions shall be one year, and any licensee whose license is suspended by the board or hearing commission shall be, at the discretion of the board or hearing commission, ineligible to have any license under this Act until the expiration or removal of the suspension. Any licensee whose license is revoked by the hearing commission or the board shall be, at the discretion of the board or hearing commission, ineligible to have any license under this Act until the expiration of one year from the date such license is revoked. The board or hearing commission is hereby granted broad discretionary powers in exercising its authority under this section.

## **Section 25. Unlawful acts and offenses.—**

### **A. It shall be unlawful:**

(1) For any manufacturer or wholesaler, or the servants, agents or employees of the same, to sell, trade or barter in beer or wine between the hours of nine o'clock p.m. of any Saturday and two o'clock a.m. of the following Monday.

(2) For any wholesaler to sell to other than wholesale or retail licensees or others within this state lawfully authorized to sell beer or wine or to sell for export.

(3) For any licensee to sell, furnish or give away alcoholic beverages to any minor, or to permit any minor to drink or consume any alcoholic beverages on licensee's premises.

(4) For any person to consume alcoholic beverages on the premises of any state liquor store or any off premises licensee.

(5) For any licensee to fail to keep for a period of at least three years, complete and truthful records covering the operation of his license and particularly showing the date of all purchases of beer

and wine, the actual price paid therefor and the name of the vendor, or to refuse the board or any authorized employee of the board access thereto or the opportunity to make copies of the same when the request is made during business hours.

(6) For any licensee to refuse the board, any of its authorized employees or any duly commissioned law enforcement officer the right to completely inspect the entire licensed premises at any time during which the premises are open for the transaction of business.

(7) For any licensee to be directly or indirectly employed by any other licensee engaged in the manufacture, storage, transportation or sale of alcoholic beverages; provided, however, this subsection (7) shall not apply to any person so employed for twenty or more consecutive years prior to the enactment of this Act.

(8) For any licensee to knowingly sell any alcoholic beverages to any person engaged in the business of illegally selling alcoholic beverages.

(9) For any person to manufacture, transport or import alcoholic beverages into this state, except in accordance with the reasonable rules and regulations of the board. Provided, however, that this provision shall not be construed to prohibit the transportation of alcoholic beverages through the state and not for delivery therein if such transportation is done in accordance with the reasonable rules and regulations of the board.

(10) For any person to fortify, adulterate, contaminate or in any wise change the character or purity of alcoholic beverages from that as originally marketed by the manufacturer, except for a retail licensee on order from a customer to mix a chaser or other ingredients necessary to prepare a cocktail or mixed drink for on-premises consumption.

(11) For any person licensed to sell beer or wine to offer to give anything of value as a premium for the return of caps, stoppers, corks, stamps or labels taken from any bottle, case, barrel or package containing such beer or wine, or to offer to give any thing of value as a premium or present to induce the purchase of such beer or wine or for any other purpose whatsoever in connection with the sale of such beer or wine. Provided, however, this provision shall not apply to the return of any monies specifically deposited for the return of the original containers to the owners thereof.

(12) For any licensee or transporter for hire to transport any alcoholic beverages except in the original container, and for any transporter for hire to transport any alcoholic beverages within the state, unless such transporter shall hold a permit issued by the



board.

(13) For any manufacturer or wholesaler to deliver any alcoholic beverages, excepting in vehicles bearing the name and address and permit number of such manufacturer or wholesaler painted or affixed on each side of such vehicle in letters no smaller than four inches in height.

(14) To sell alcoholic beverages within any dry county or county where the electors have voted against such sales, or as authorized by Section 20 of this Act.

(15) For any person, firm, corporation, partnership or association of persons as such terms are defined in Section 2 of this Code, including any civic center authority, racing commission, fair authority, airport authority, public or quasi-public board, agency or commission, any agent thereof, or otherwise, who has not been licensed to do so under the appropriate provisions of this Code to sell, offer for sale or have in possession for sale, any alcoholic beverages. Any alcoholic beverages so possessed, maintained, or kept shall be contraband and subject to condemnation and confiscation as provided by law.

(16) For any manufacturer, distiller, producer or distributor of alcoholic beverages to employ and maintain any person not its full-time bona fide employee as its resident sales agent, broker or other like representative, for the purpose of promoting a sale, purchase or acquisition of alcoholic beverages to or by the state or the board, or for any person not a full-time bona fide employee to act as such agent, broker or representative of any manufacturer, distributor, producer or distiller for that purpose.

(17) For any licensee to sell, give away, or otherwise dispose of taxable alcoholic beverages within this state on which the required taxes have not been paid.

(18) For any wholesaler or retailer to sell, distribute, deliver or to receive or store for sale or distribution within this state any alcoholic beverages unless there first has been issued by the board a manufacturers license to the manufacturer of such alcoholic beverages or its designated representative or an importer license to the importer of such alcoholic beverages.

(19) For a minor to attempt to purchase, to purchase, consume, possess or to transport any alcoholic beverages within the state; provided, however, it shall not be unlawful for a minor employee of a wholesale licensee or an off-premises retail licensee of the board to handle, transport or sell any beer or table wine if such minor is acting within the line and scope of his employment while so

acting. There must be an adult present at all times a licensed establishment is open for business.

(20) For any person, except where authorized by a local act or general act of local application, to buy, give away, sell, or serve for consumption on or off the premises, or drink or consume any alcoholic beverages in any cafe, lunchroom, restaurant, hotel dining room, or other public place on Sunday after the hour of 2:00 o'clock a.m.

(21) Except where authorized by a local act or general act of local application, for the proprietor, keeper or operator of any cafe, lunchroom, restaurant, hotel dining room, or other public place to knowingly permit any person to give away, sell, or serve for consumption on or off the premises, or drink or consume any alcoholic beverages on the premises of such cafe, lunchroom, restaurant, hotel dining room, or other public place on Sunday after the hour of 2:00 o'clock a.m.

B. (1) Any violation of the foregoing subsections 1-18 of subsection A of this Section 25 shall be a misdemeanor punishable by a fine of not less than one hundred dollars nor more than one thousand dollars, to which, at the discretion of the court or judge trying the case, may be added imprisonment in the county jail or at hard labor for the county for not more than six months for the first conviction; and, on the second conviction of a violation of this subsection, the offense shall, in addition to a fine within the limits above named, be punishable by imprisonment or at hard labor for the county for not less than three months nor more than six months to be imposed by the court or judge trying the case; and, on the third and every subsequent conviction of a violation of this subsection, the offense shall, in addition to a fine within the limits above named, be punishable by imprisonment or at hard labor for the county for not less than six months nor more than twelve months.

B. (2) Any violation of any of the foregoing subsections 19,20 and 21 of subsection A of this Section 25 shall be a misdemeanor punishable by a fine of not less than fifty dollars nor more than five hundred dollars, to which, at the discretion of the court or judge trying the case, may be added imprisonment in the county jail or at hard labor for the county for not more than three months.

**Section 26.** Any person who has been found guilty of violating any of the provisions of this Code and who, after being punished by fine, penalty, assessment or imprisonment shall be guilty of a second or subsequent violation of this Code, shall upon being found guilty of such second or subsequent offense, have the license or permit as provided in this Code revoked by the board, and

no further license or permit shall be issued or granted to such person for a period of one year from the date the license or permit shall have been revoked.

**Section 27. Repealer.**—All laws or parts of laws which conflict or are inconsistent with this Code are hereby repealed. Without limiting the generality of the foregoing, the following laws are specifically repealed: Section 28-3-1; Section 28-3-23; Sections 28-3-70 through 28-3-73, inclusive; Sections 28-3-90 through 28-3-95, inclusive; Sections 28-3-110 through 28-3-115, inclusive; Sections 28-3-130 through 28-3-148, inclusive; Sections 28-3-160 through 28-3-167, inclusive; Sections 28-3-260 through 28-3-268, inclusive; all of Code of Alabama 1975.

**Section 28. Severability.**—The provisions of this Code are severable. If any part of the Code is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 29. Effective date.**—Upon its passage and approval by the Governor, or upon its otherwise becoming a law, this Code shall become effective at midnight on September 30, 1980, provided, however, that any license granted prior to the effective date shall remain in effect until its expiration.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-530

H. 492—Johnson (R.G.), Shoemaker, Minus

### AN ACT

To provide for an examination fee of five dollars (\$5.00) prior to testing for driver license, temporary instruction and learner's permits, and motor driven cycle operators license.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Every applicant for an original driver license, temporary instruction and learner's permit, and motor driven cycle operator's license, shall be required to pay a fee of five dollars (\$5.00) to the Alabama Department of Public Safety upon applying to the officer, state trooper, or duly authorized agent of the director of public safety, or to one of them where there is more than one designated by the director of public safety, to conduct examinations in the county of the applicant's residence. The \$5.00 fee shall be required prior to each examination.

**Section 2.** The Alabama department of public safety shall issue proper receipts for said examination fee and shall properly transmit all monies received by it for deposit in the State General Fund.

**Section 3.** The provisions of this act shall not amend, modify, or supersede any of the provisions of Sections 32-6-4, 32-6-8 or 32-6-17, Code of Alabama 1975, regarding fees for issuance of driver license or fee for reinstatement.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective January 1, 1981.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-531

H.J.R. 208—Pegues

### HOUSE JOINT RESOLUTION

TO MAKE APPLICATION TO THE CONGRESS OF THE UNITED STATES OF AMERICA TO CALL A CONSTITUTIONAL CONVENTION FOR THE SOLE AND EXCLUSIVE PURPOSE OF PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA TO PROVIDE THAT UNLESS ADOPTED AS LAW BY THE CONGRESS, FEDERAL RULES AND REGULATIONS ADOPTED BY AN ADMINISTRATIVE BODY OR AN OFFICIAL IN THE EXECUTIVE BRANCH OF THE UNITED STATES GOVERNMENT SHALL NOT BE THE SUPREME LAW OF THE LAND AND SHALL NOT BE SUPERIOR IN EFFECT TO ANY STATE LAWS OR PROVISIONS OF STATE CONSTITUTIONS.

WHEREAS, under present Supreme Court rulings, a federal rule or regulation adopted by an administrative body or federal official can have the effect of repealing, nullifying or pre-empting a state statute or constitutional provision; and

WHEREAS, the federal bureaucracy hastily decrees rules and regulations which entangle business enterprise, restrain free competition, inflate the costs of goods and cause confusion in all fields of endeavor; and

WHEREAS, the spread of federal rule by regulation has serious, dire implications for the continuance of a truly federal system of laws where states are free to exercise their sovereign powers; and

WHEREAS, it is imperative that the states of this nation unite to preserve and protect the responsibilities, powers and duties of states, which are the bastions of democracy, from the entangling, restricting, ever growing web of federal rules and regulations; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Legislature of Alabama does hereby make formal application to the Congress of the United States of America pursuant to Article V of the Constitution of the United States of America to call a constitutional convention for the sole purpose of proposing an amendment to the Constitution of the United States to read as follows:

“Article \_\_\_\_\_. Federal rules and regulations.

“Unless adopted as law by the Congress, federal rules and regulations adopted by an administrative body or an official in the executive branch of the government of the United States shall not be the supreme law of the land and shall not be superior in effect to any state laws or state constitutional provisions.”

BE IT FURTHER RESOLVED, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the United States Congress, and to the members of the congressional delegation from the State of Alabama.

This Act became a law under Section 125 of the Constitution on May 21, 1980 without approval by the Governor.

---

Act No. 80-532

H.J.R. 283—McMillan, Penry, Bedsole

### HOUSE JOINT RESOLUTION

COMMENDING HONORABLE JOE C. MCCORQUODALE, JR., CHAIRMAN, AND ALL OTHER MEMBERS OF THE GOVERNOR'S FOREST DISASTER RECOVERY COUNCIL FOR DISASTER RELIEF WORK IN THE AFTERMATH OF HURRICANE FREDERIC AND THE HONORABLE FOB JAMES, GOVERNOR, FOR NAMING SAID COUNCIL.

WHEREAS, Hurricane Frederic was responsible for causing widespread damage to the forests of southwest Alabama; and

WHEREAS, the timber interests in southwest Alabama were practically devastated monetarily by the winds of Hurricane Frederic; and

WHEREAS, urgent action was needed to provide disaster relief and cleanup operations for such area of Alabama; and

WHEREAS, it was imperative to speed-up and expedite the clearing of roadways and the harvesting and marketing of fallen timber in order to salvage the same from decay; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that we do highly commend the Honorable Fob James, Governor, for his timely action in naming the members of the Governor's Forest disaster Recovery Council and we also highly commend all members of said Council, including its Chairman, Honorable Joe C. McCorquodale, and the Committee Chairmen as follows: Utilization, John Tyler; Transportation, Tom Kelly; Emergency Services, C. W. Moody; Information, Hilton Watson; Humanitarian Services, Larkin Wade; Reforestation, Bob Lee, for the initiative and tireless effort of said council in providing disaster relief and cleanup work in the aftermath of Hurricane Frederic resulting in the salvage of damaged timber in southwest Alabama. We also single out for commendation Forest Industry in Alabama for responsible action which is resulting in the salvage of damaged timber to the maximum degree possible.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to Honorable Fob James, Honorable Joe C. McCorquodale, and to the Governor's Forest Disaster Recovery Council, in recognition of their services and dedication.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-533

H.J.R. 284—Crow, Campbell, Blake, Willis

### HOUSE JOINT RESOLUTION

DIRECTING THE ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD TO FORTHWITH CEASE ISSUING BEER, WINE OR LIQUOR LICENSES TO CERTAIN ALIEN RESIDENTS.

WHEREAS, the Alabama Legislature recognizes that the economy and world events have threatened the livelihood of many of our native Alabamians who have worked for the betterment of this state and its citizens and who have paid taxes; and

WHEREAS, it has come to the attention of the legislature that the Alabama Alcoholic Beverage Control Board allows licenses for the sale of beer, wine or liquor to be issued to aliens who presently, even temporarily, reside within the state and many such aliens have not, nor do they intend to apply for American Citizenship; and

WHEREAS, such indiscriminate licensing poses potential serious dangers to the health and morals of our citizens and this state's interest in temperance; and

WHEREAS, such licensing lessens business and job opportunities to native Alabamians and other citizens who have contributed their talents and taxes for many years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Alcoholic Beverage Control Board is hereby directed to forthwith cease and desist from issuing any license for the sale of beer, wine or liquor to any alien who has not applied for citizenship at least six months prior to making application therefor.

BE IT FURTHER RESOLVED, That the Alcoholic Beverage Control Board may continue to process any applications by aliens who are non-citizens which are pending on the date this resolution becomes an act; thereafter no such applications shall be processed.

RESOLVED FURTHER, That a copy of this resolution shall be sent to the director of the Alabama Alcoholic Beverage Control Board.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-534

H.J.R. 293—Johnson (R.G.)

### HOUSE JOINT RESOLUTION

APPROPRIATING FUNDS TO THE CONTINUING SELECT JOINT COMMITTEE TO STUDY THE RISING COST TO THE STATE OF THE MEDICAID PROGRAMS ESTABLISHED BY ACT NO. 79-816 OF THE 1979 REGULAR SESSION OF THE LEGISLATURE.

WHEREAS, funding will be needed to continue the duties and functions of the continuing select joint committee to study the rising cost to the state of the medicaid programs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby appropriated out of funds appropriated to the use of the legislature, \$7,000.00 to the continuing select joint committee to study the rising cost to the state of the medicaid programs established by Act No. 79-816 of the 1979 Regular Session of the Legislature.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-535

H.J.R. 298—Bennett, Lewis, Waggoner

#### HOUSE JOINT RESOLUTION

DECLARING MISS TERESA PARKER TO BE OF ITALIAN DESCENT.

WHEREAS, the Legislature of Alabama is pleased to note the forthcoming marriage, on May 17, 1980, of our friend and colleague, Mr. John Amari, to Miss Teresa Parker; and

WHEREAS, the Legislature further notes that Mr. Amari's entire family has expressed a desire that our colleague marry an Italian girl; and

WHEREAS, it is the consensus of this body, after being advised by our colleague's Uncle John and Uncle Paul that since at one time "All Roads Led to Rome," that, time permitting, thorough research might well turn up an Italian twig somewhere in Miss Parker's family tree; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in the interest of time and a desire to please, we hereby declare Miss Teresa Parker to be of direct Italian lineage and descent.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent immediately to Miss Teresa Parker and to our colleague's Uncle John and Uncle Paul that they may know that Miss Teresa Parker is indeed an Italian girl, and what's amore—that's Amari!

Approved May 19, 1980

Time: 5:00 P.M.



Act No. 80-536

H. 73—Mitchell

## AN ACT

Relating to Tuscaloosa County and any city located therein; to require the granting, under certain circumstances, of either overtime pay or compensatory leave to certain local law enforcement officers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any law enforcement officer in the service of Tuscaloosa County or any city located therein who is assigned to duty for more than eight hours during any one day or for more than forty hours during any calendar week shall be paid time and one-half for such excess hours worked; or he shall be given time and one-half compensatory leave. In all such cases, it shall be at the sole option of the law enforcement officer whether he shall receive overtime pay or compensatory leave.

**Section 2.** Any such law enforcement officer who works overtime during any calendar month shall on the last day of such month file in writing a statement as to his election to accept overtime pay or compensatory leave. In the event such law enforcement officer elects to receive overtime pay, such pay shall be included with his compensation for the next succeeding pay period. If he elects to receive compensatory leave, such leave may be taken at any time during the calendar year in which it is earned, except during times of emergency.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-537

H. 266—Albright

AN ACT

To provide for the sale of non-resident commercial fishing licenses by the department of conservation and natural resources to the residents of certain other states and to require that the proceeds of such licenses be deposited in the game and fish fund of the department of conservation and natural resources.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) The department of conservation and natural resources, hereinafter referred to as "the department" or duly authorized designees of the department shall sell and issue commercial fishing licenses to residents of other states, which other states reciprocate the sale and issuance of similar such commercial fishing licenses to residents of Alabama to fish the waters of their respective states.

(b) The amount to be charged for such non-resident commercial fishing license shall be the same as is charged a resident of Alabama for such a license in the reciprocating state, but in no event shall the amount be less than the prevailing amount charged by the department of commercial fishing licenses for Alabama residents.

(c) Non-resident commercial fishing licensees shall be subject to the same rules, regulations and requirements of law and of the department as may apply to Alabama resident commercial fishing licensees. Each license issued pursuant to this act shall expire on September 30 of the year for which such license is issued.

(d) All proceeds derived from the issuance of such non-resident commercial fishing licenses shall be deposited to the game and fish fund of the department.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective on April 1, 1981.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-538

H. 395—Shavers

## AN ACT

Relating to Jackson County; to provide further for an annual salary for the

chairman of the County Commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Beginning with the next term of office, the chairman of the Jackson County Commission shall receive a total annual salary of \$22,000. Such amount shall be paid in equal monthly installments from the general fund in the county treasury.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-539

H. 488—Bedsole, Pegues, Johnson (R.G.),  
Carothers, Hines, Williams,  
Warren, Dixon, Parker,  
Zoghby, Kennedy

### AN ACT

To make it a felony to falsify any claim or application for payment of benefits from Medical Services Administration or to knowingly assist in the preparation of false claims; to make it a felony to offer, pay, solicit or receive kickbacks, bribes or rebates for referring, furnishing, arranging, purchasing, leasing or ordering any good, item, service or facility for which any payment may be made by Medical Services Administration.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any person who, with intent to defraud or deceive, makes, or causes to be made or assists in the preparation of any false statement representation or omission of a material fact in any claim or application for any payment, regardless of amount, from Medical Services Administration, knowing the same to be false; or with intent to defraud or deceive, makes, or causes to be made, or assists in the preparation of any false statement, representation or omission of a material fact in any claim or application for medical benefits from Medical Services Administration, knowing the same to be false; shall be guilty of a felony and upon conviction thereof shall be fined not more than Ten Thousand Dollars (\$10,000) or imprisoned for not less than one (1) nor more than five (5) years, or

both.

**Section 2.** Any person who solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind:

(1) In return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medical Services Administration or its agents, or

(2) In return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part by Medical Services Administration, or its agents shall be guilty of a felony and upon conviction thereof, shall be fined not more than Ten Thousand Dollars (\$10,000) or imprisoned for not less than one (1) nor more than five (5) years, or both.

**Section 3.** Any person who offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medical Services Administration or its agents, or to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part by Medical Services Administration, or its agents, shall be guilty of a felony and upon conviction thereof shall be fined not more than Ten Thousand Dollars (\$10,000.00) or imprisoned for not less than one (1) nor more than five (5) years, or both.

**Section 4.** Sections 2 and 3 of this act shall not apply to a discount or other reduction in price obtained by a provider of services or other entity under Medicaid if the reduction in price is properly disclosed and appropriately reflected in costs claimed or charges made by the provider or entity to Medical Services Administration or its agents, or any amount paid by an employer to an employee (who has a bona fide employment relationship with employer) for employment in the provision of covered items or services.

**Section 5.** Any two or more offenses in violation of the preceding sections may be charged in the same indictment in separate counts for each offense and such offense shall be tried together, with separate sentences being imposed for each offense of which defendant is found guilty.

**Section 6.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-540

H. 637—Hall

### AN ACT

Relating to Jackson County; providing further for the election of the county superintendent of education and members of the county board of education; prescribing certain residential qualifications for said superintendent and such members, providing for supplemental effect, and providing for its effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Jackson County superintendent of education and several members of the Jackson County board of education shall hereafter be elected by only those qualified electors in the county who are residing outside the city limits of Scottsboro, Alabama.

**Section 2.** Any candidate for a seat on the board of education in Jackson County must be a resident of the district which he or she seeks to represent and any candidate for county superintendent of education must reside in Jackson County.

**Section 3.** The provisions of this Act are supplemental. It shall be construed in pari materia with all other laws relating to the Jackson County superintendent of education and county board of education. However, all laws or parts of laws in conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective on January 1, 1981.

This Act became a law under Section 125 of the Constitution on May 21, 1980 without approval by the Governor.

Act No. 80-541

H. 795—Brakefield

## AN ACT

Relating to Walker County; to provide for the City of Parrish in Walker County a civil service system governing the appointment removal, salaries, tenure and official conduct of employees of the city; defining violations of the act; imposing penalties for violations; and repealing conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall apply only in the City of Parrish in Walker County.

**Section 2.** As used in this act, unless the context clearly requires a different meaning: "city" means the City of Parrish in Walker County; "employee" means any person, including firemen and policemen and employees of the street department; employees of the water and gas boards, not excepted by Section 3 of this act who is regularly employed in the service of the City of Parrish; "board" means the civil service board created by this act; "appointing authority" means in the case of employees in the offices of the elected officers of the city, such elected officers; in the case of all other city employees, the city governing body, or the board or other agency supervising their work.

**Section 3.** The provisions of this act shall apply to all officers and employees in the service of the city or any board, agency or instrumentality thereof except: (a) elective officers; (b) members of appointive boards, commissions, and committees; (c) all employees of the city board of education; (d) attorneys, physicians, surgeons, nurses and dentists employed in their professional capacities; (e) the judge of any court; (f) independent contractors receiving their remuneration from public funds under contracts awarded by competitive bidding; (g) any person whose employment is subject to the approval of the United States government or any agency thereof; (h) city clerk, city manager or finance officer.

**Section 4.** All employees of the city shall be governed by civil service rules and regulations prescribed in or promulgated pursuant to this act, administered by a civil service board, the creation of which is provided for in Section 5 hereof. Present employees shall remain in their respective employments during good behavior; but nothing herein shall be construed to prevent or preclude the removal of an employee for cause in the manner hereinafter provided; and such employees, except for appointment, shall be subject fully to the provisions of this act.

**Section 5.** There is hereby created the civil service board of the City of Parrish, which shall be composed of three members

appointed by the Governor, upon nomination in writing by members of the Walker County legislative delegation, as follows: the senator and each representative may submit not more than three nominations for each place to be filled, and the appointment, or appointments, shall be made from among those persons thus nominated; if the same person is nominated by all members of the delegation, the person thus nominated shall be appointed; if the legislative delegation is divided, the nominee favored by the majority shall be appointed. If no person receives a majority nomination, each member of the legislative delegation may forthwith submit in writing an additional nominee until some person receives a majority nomination and such person shall be forthwith appointed. Of the first members of the board one shall be appointed for a term of two years, one for a term of four years, and one for a term of six years. Their successors shall be appointed for terms of six years. No person shall be appointed to the board who is not a resident and qualified elector of the City of Parrish and over the age of twenty-one years. No member of the board shall hold any office of profit under the city, the county, or the State of Alabama. Members of the board shall take the constitutional oath of office, which shall be filed in the office of the probate judge. Vacancies on the board shall be filled for the unexpired term by the Governor in the same manner as the original appointments. Nominations to fill a vacancy must be submitted to the Governor within thirty days after the vacancy occurs, and the Governor must make the appointment forthwith. The members of the board shall elect a chairman and secretary from among their number. Any member of the board who becomes a candidate for, or is appointed or elected to another public office vacates his office as a member of the board, and the mayor or other chief executive officer of the City of Parrish shall forthwith notify the Governor, who shall fill the vacancy as provided in this section.

**Section 6.** The members of the board shall each be entitled to \$25 pay for each regular meeting of the board he attends, but he shall not be entitled to any other compensation or allowance. The board shall have power to appoint clerical assistants and engage legal counsel of its own choice, who shall be paid by the city. The pay of members of the board for attending board meetings shall also be paid by the city.

**Section 7.** The board shall fix the times for its regular meetings; and it may hold special, adjourned or call meetings at any time. A majority of the members of the board shall constitute a quorum for the transaction of business. All meetings of the board shall be held in the city hall.

**Section 8.** The board shall keep minutes of its meetings and a record of all business transacted by it. Its records, except those the rules of the board require to be held confidential for reasons of public policy, shall be open for inspection by any resident of the city at all reasonable times.

**Section 9.** The board shall have power to make rules and regulations governing examinations, eligible registers, appointments, transfers, salaries, promotions, demotions, annual and sick leave, and such other matters as may be necessary to accomplish the purposes of this act. A rule or regulation may be made effective only after a public hearing is held on the proposal thereof and after a certified copy thereof has been filed with the city clerk. All employees shall be appointed upon a non-partisan merit basis. There shall not be appointed, and the board shall not examine, any person who is not a citizen of the United States. The board shall: (1) classify the different types of services to be performed in the service of the city; (2) prescribe qualifications, including those of education, training, and experience, for the appointees and incumbents of each class; (3) with the approval of the appointing authority, fix a maximum and minimum salary for each class; and (4) allocate each position in the service to its proper class. It shall provide for the periodic rating of employees according to their merit to determine whether they are maintaining standards of service. The board shall establish rules and regulations governing dismissals, suspensions, layoffs, terminations, and leaves of absence, and the severance of an employee's relationship with the city shall be in accordance with such regulations.

**Section 10.** The salary to be paid each subordinate employee shall be determined by his appointing authority; and the salary to be paid each department head employee shall be determined by the city governing body; but in every case the salary paid shall be within the pay plan and pay rules and regulations established by the board and shall be no more than the board approves. It shall be unlawful for any official or employee to draw or issue any warrant on the city treasury for the payment of salary to any employee covered by the provisions of this act unless the warrant is in an amount authorized by the board to be paid such employee. A sum paid as salary contrary to the provisions of this section may be recovered in an action brought by any resident of the city against the official or employee who draws or issues the warrant, or against the sureties on his bond.

**Section 11.** The board shall make and keep a register of all persons eligible and available for appointment to each class of position in the service of the city, ranked according to ability; it is



provided, however, that no examination shall be given and no register kept for positions to be filled by persons designated by the board as common laborers. Layoffs available for re-employment shall be placed at the head of the proper present and subsequent eligible registers in the inverse order of their terminations. Employees who voluntarily terminate their services may be granted re-employment status upon proper eligible registers under such circumstances and in such manner as may be provided for in the board's rules and regulations, subject, however, to stipulations of this section concerning layoffs. Persons desiring appointment may file applications with the board, and the board shall, from time to time, conduct examinations to test the ability of such applicants. All qualified applicants shall be examined, and examinations shall be public, competitive, subject to limitations specified by the board as to age, residence, health, height, weight, habits, moral character, and other factors pertinent to ability to discharge the duties of the position, and open to all citizens of the United States. Examinations shall be practical in character and shall relate to those matters which test the ability of the person examined to discharge intelligently the duties of the position for which he applies. In no case shall an appointment be made from an eligible register which is more than two years old, and no eligible register shall be the result of more than one examination.

**Section 12.** Whenever a vacancy exists in any position in the service of the city it shall be filled by appointment of one of the three persons who rank highest on the appropriate eligible register of the board or by transfer within the service of the city from another position of the same class. However, the ranking layoff of the same class shall be appointed in every instance. Whenever it is impossible for the board to certify eligible persons to a vacancy, the board may authorize the appointing authority to fill the vacancy temporarily pending the establishment of an eligible register. No such authorization may be given for longer than one hundred and twenty days, and no such employee shall have status under this act. All appointments, other than temporary appointments, shall be probationary for six months from the date of appointment. A probationary subordinate employee may be discharged by his appointing authority for unsatisfactory service at any time before the expiration of that period if the action is approved by the board; a probationary department head employee may be discharged or demoted similarly by his appointing authority upon approval by the board. After the expiration of the probationary period an appointment shall become permanent.

**Section 13.** An appointing authority shall have authority to suspend an employee for any personal misconduct, or fact, affecting

or concerning his fitness or ability to perform his duties in the public interest. In the event an employee is suspended for more than thirty days, he shall be entitled to a public hearing by the board upon written demand filed within five days from the date of the order of suspension. If, after hearing, the board determines that the action of the appointing authority was not with cause, the suspension shall be revoked.

**Section 14.** (a) The governing body of the city, any member of the governing body, or the head of any department or office can remove, discharge, or demote any employee, officer or official of the city who is subject to the provisions of this act and who is directly under such governing body, member thereof, or department head, provided that within five days a report in writing of such action is made to the board, giving the reason for such removal, discharge, or demotion. The employee shall have ten days from the time of notification of his discharge, removal, or demotion in which to appeal to the board. The board shall thereupon order the charges or complaint to be filed forthwith in writing and shall hold a hearing de novo on such charges. No permanent employee, officer, or official of the city whose employment comes within the jurisdiction of this act, and whose probationary period has been served, shall be removed, discharged, or demoted except for some personal misconduct, or fact, rendering his further tenure harmful to the public interest, or for some cause affecting or concerning his fitness or ability; and if such removal, discharge or demotion is appealed to the board, then the same will become final only after a hearing upon written charges or complaint has been had and after an opportunity has been given him to face his accusers and be heard in his own defense. Pending a hearing on said appeal, the affected employee may be suspended; and after such hearing the board may order said employee reinstated, demoted, removed, discharged, or suspended, or take such other disciplinary action as in their judgment is warranted by the evidence and under the law. Charges may be filed by any resident citizen of the city as follows: the charges must be in writing, must set forth succinctly the matters complained of, and must be sworn to before any member of the board or before any person authorized to administer oaths. Upon the receipt of charges, the board, after due consideration, shall determine whether in its opinion it considers that the good of the service will be served by a trial thereon; and, if not, such charges may be dismissed by the board. If in the judgment of the board such charges are of a minor nature, such charges may be referred by the board to the proper department head who shall make an investigation of the charges and make his recommendation to the board within such time as the board may prescribe, as to what disciplinary action, if any, should

be taken. After such recommendation is made by the department head and after due notice is given to the affected employee of the receipt of such recommendation and the contents thereof, the board may, in its discretion, adopt and order executed the action recommended by the department head or any part thereof. However, if the complainant or the affected employee, or both of them, objects to the recommendation of the department head, the board shall hold a public hearing de novo on the charges, and take such disciplinary action as in their judgment is warranted by the evidence and under the law. All hearings before the board shall be open to the public. All testimony given in all hearings before the board shall be taken down in shorthand by a stenographer. In all cases, the decision of the board shall be reduced to writing and entered in the record of the case. In all proceedings before the board, the city attorney may appear and prosecute all charges instituted by the city governing body or any member thereof or by any department head, when requested or directed to do so by such city governing body. It shall not be the duty of the city attorney to prosecute any charges brought by a private citizen. In all proceedings before the board, the city attorney may appear and represent the interest of the city, and he shall also give such legal advice and legal assistance to the board as may be requested by it.

The board and its specially authorized representatives shall have the power to administer oaths, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of papers necessary as evidence in connection with any hearing, investigation, or proceeding within the purview of this act. The chief of police or some other police officer of the city shall serve all processes of the board, and shall attend upon and preserve order at all public hearings conducted by the board. In case a person refuses to obey such subpoena, the board or its representative may invoke the aid of any circuit court in order that the testimony or evidence be produced. Upon proper showing, such court shall issue a subpoena or order requiring the person to appear before the board or its representative and produce all evidence and give all testimony relating to the matter in issue. A person who fails to obey such subpoena order may be punished by the court as for contempt. The fees of witnesses for attendance and travel shall be the same as fees for witnesses in the circuit courts of this state, which fees shall be paid from the treasury of the city.

(b) Any person aggrieved by a decision of the board may appeal such decision to the circuit court of Walker County in equity within thirty days from the rendition of such decision by the board. Review by the court shall be without a jury and be confined to the record, and to a determination of the questions of law presented;

the board's findings of fact shall be final and conclusive.

**Section 15.** No employee shall make, solicit or receive any assessment, donation, subscription or contribution for any political purpose whatsoever, or be a member of a committee or an officer of a political party, or take any part in its management, or affairs except to exercise his right as a citizen to express his opinion and cast his vote; no employee shall assist any candidate for nomination or election to public office, or make any public statement in support of or against any such candidate, or participate in any manner whatever in the campaign of any candidate in any general or primary election; and no employee shall receive any appointment or advancement as a reward for his support of a candidate for office or a political party; nor shall he be dismissed, suspended or reduced in rank or pay as punishment for his failure to support any candidate for political office.

**Section 16.** The expenses of the board arising under the provisions hereof shall be paid from funds of the city. The city governing body shall provide the board an office in the city hall, which shall be suitably equipped and furnished for the needs of the board, and telephone service, postage, office supplies, and stationery; also, secretarial and clerical help as deemed necessary by the board.

**Section 17.** Any person in the service of the city by appointment under civil service rules or regulations who wilfully violates any provisions of this act, or any rule or regulation issued in pursuance thereof, shall be dismissed from service under the system and shall not be reappointed for two years.

**Section 18.** Any person who violates any of the provisions of this act shall be guilty of a misdemeanor.

**Section 19.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 20.** All laws or parts of laws which conflict with this act are repealed.

**Section 21.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

## AN ACT

To alter or rearrange the boundary lines of the City of Daleville, Dale County, Alabama, so as to include within the corporate limits of said city all territory now within such corporate limits, and also certain other territory in Dale County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the City of Daleville, Dale County, Alabama, be and the same are altered or rearranged so as to include within the corporate limits of said city, all territory now within such corporate limits and also other territory within Dale County, Alabama, described as follows:

Beginning at a concrete monument stamped "174-A", which is 100 feet, more or less, south of the center of Andrews Avenue West, on the west line and 1,041.5 feet S00°50'W of the Northwest corner of Section 9, T4N, R23E, on the boundary of a tract of land owned by the United States of America at Fort Rucker Military Reservation and at plane coordinate position North 305, 018.27 feet and East 524, 129.24 feet, based on Transverse Mercator Projection, Alabama East Zone; thence S74°16'E, 2,157.0 feet to a concrete monument stamped "171-E"; thence S77°34'E, 937.3 feet to a concrete monument stamped "171-E"; thence S77°34'E, 90 feet, more or less, to the center of Claybank Creek; thence southerly along centerline of said creek 6,800 feet, more or less, to a point which is on the northern right of way line of Atlantic Coast Line Railroad and on the boundary of said United States tract; thence Easterly along the northern right of way line of said railroad, 150 feet, more or less, to a point; thence southerly across the railroad, 50 feet, more or less, to a point which is on the southern right of way line of said railroad; thence westerly along the southern right of way line of said railroad, 200 feet, more or less, to a point; thence Northerly across the railroad, 50 feet, more or less, to a point, which is on the northern right of way line of said railroad and on the boundary of said United States Tract; thence westerly along the northern right of way line of said railroad which is along the boundary of said United States Tract, 2350 feet, more or less, to a corner of said tract; thence northerly along the northern right-of-way line of said railroad, which is along the boundary of said United States Tract, 100 feet, more or less, to a corner of said tract; thence westerly along the northern right of way line of said railroad, which is along the boundary of said United States Tract, 1,150 feet, more or less, to a point which is on the west line of said Section 16 and at a corner of said tract; thence N00°50'E along the west line of said Section 16, which is along the boundary line of said United States

tract, 5,475 feet, more or less, to the point of beginning. Containing 417.00 acres, more or less, in Dale County, Alabama.

**Section 2.** The police jurisdiction of the City of Daleville shall not extend beyond the limits of that parcel of land brought into the corporate limits of the City of Daleville under the provisions of Section 1 of this Act.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-543

H. 821—Williams

### AN ACT

To repeal Act No. 269, H. 1107, 1977 Regular Session (Acts of 1977, p. 372) providing for the alteration and rearrangement of the boundary lines of the City of Daleville, Dale County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act No. 269, H. 1107, 1977 Regular Session (Acts of 1977, p. 372) providing for the alteration and rearrangement of the boundary lines of the City of Daleville, Dale County, is hereby repealed.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-544

H. 851—Barton

### AN ACT

Relating to Tuscaloosa County; to provide that if a defendant in a criminal case enters a written plea of not guilty prior to his arraignment, such plea shall constitute a waiver of his rights to have an arraignment at which he is present in person or represented by an attorney.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** If a defendant in a criminal case pending in a court of competent jurisdiction in Tuscaloosa County shall enter a written plea of not guilty at any time prior to the day of his arraignment, such plea shall constitute a waiver of his right to have an arraignment at which he is present in person or at which he is represented by an attorney.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-545

H. 860—Smith (J)

AN ACT

Pertaining to Madison County; to repeal Act Number 84, S. 62, Fourth Special Session 1975 (Acts. p. 2728).

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act Number 84, S. 62, Fourth Special Session 1975 (Acts p. 2728) is hereby repealed.

**Section 2.** This Act shall be effective immediately upon its passage or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-546

H. 871—Smith (J)

AN ACT

Relating to Madison County, Alabama; to amend Act No. 488, H. 706, Regular Session 1978 (Acts, p. 530) so as to provide that any person released from jail under Section 1 of Act 488 shall pay to the County a sum equal to 25% of his or her gross earnings earned while so released.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 4 of Act No. 488, H. 706, Regular Session

1978 (Acts, p. 530) is hereby amended to read as follows:

**“Section 4.** Any person released from jail pursuant to Section 1 of this Act shall pay to the County a sum equal to twenty-five percent (25%) of his or her gross earnings earned while so released. The Court having jurisdiction of the case, as a condition to releasing a prisoner pursuant to the terms of this Act, may require that the said prisoner establish a payroll deduction for the payment of any sums due hereunder. All sums so collected, whether by payroll deduction or otherwise, shall be paid over to and collected by the Madison County Commission and deposited to a separate fund to be known as the Madison County Work Release and Pre-Trial Release Fund.”

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-547

H. 872—Smith (J)

### AN ACT

Relating to Madison County, Alabama; to provide arrest powers for personnel of the Madison County Work Release and Pre-Trial Release Commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All personnel employed by the Madison County Work Release and Pre-Trial Release Commission pursuant to Section 16 (b), Act 488, H. 706, Regular Session 1978 (Acts, p. 530) who have been certified by The Alabama Peace Officer Standards and Training Commission, shall have the same authority and powers vested in Deputy Sheriffs and all other peace officers of the State of Alabama. Such personnel shall be responsible to the Madison County Work Release and Pre-Trial Release Commission and shall perform all duties assigned to them by such Commission.

**Section 2.** All laws or parts of laws which conflict with this



Act are repealed.

**Section 3.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-548

H. 922—Carothers, Grimsley, Daniels

AN ACT

Relating to Houston County; to provide an expense allowance for the judge of probate and the revenue commissioner of said county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The judge of probate and the revenue commissioner of Houston County shall be provided an expense allowance of \$150.00 per month, payable out of the county general fund from money not otherwise appropriated or as specified by the governing body of the county. Such expense allowance shall be in addition to all other expense allowances heretofore provided.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-549

H. 967—Cooley, Bowling

AN ACT

To amend and re-enact Act No. 79-574, H. 995, 1979 Regular Session (Acts 1979, p. 1022), entitled, "An Act Relating to Cullman County; to establish a county personnel board; to provide for the appointment, and compensation of the members; and to provide for the powers, duties and authority of the personnel board in the personnel administration of the county," to provide further for said personnel board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act No. 79-574, H. 995, 1979 Regular Session (Acts 1979, p. 1022), is hereby amended and re-enacted to read as follows:

“An Act To provide for a personnel system for Cullman County, Alabama, and to empower and direct the county commission of said county to promulgate rules, regulations, and procedures to govern the hiring, transfer, removal, salaries, promotions, demotions, training, and official conduct of all regular, full-time employees of the county; to establish a county personnel board; to provide for the appointment and compensation of the members of said board; and to provide for the powers, duties, and authority of the personnel board in the personnel administration of the county.

“Be It Enacted by the Legislature of Alabama:

“Section 1. Application. This Act shall apply to and have application in Cullman County, Alabama, to all regular full-time employees whose wages, salaries, and benefits are provided in whole or in part from the general fund of the county and other designated and special funds under the management and administration of the county commission of said county, including regular full-time employees of the sheriff's department, revenue commissioner's office, probate judge's office, and juvenile probation office, including the chief probation officer, except as limited in Section 2 of this Act.

“Section 2. Exception to Application. The provisions of this Act notwithstanding, the sheriff of Cullman County shall be authorized to set employment policies for the sheriff's department of Cullman County and subject to the provisions of Section 10 and Section 11 of this Act, to promote and demote personnel within the sheriff's department without consulting the Cullman County commission or personnel board. The sheriff of Cullman County shall be authorized to hire law enforcement personnel for the sheriff's department of Cullman County provided such personnel meet the requirements of the Alabama Minimum Standards Act. Applications for employment with the sheriff's department shall be submitted to the sheriff's department. The Cullman County commission and personnel board shall not be authorized to set policies on employment practices within the sheriff's department. All law enforcement personnel within the sheriff's department shall be considered skilled employees and their salaries set in accord with such skilled status. Provided, however, that nothing in this section shall be construed to limit, abridge, or interfere with any right or protection provided any employee under this Act. Elected officials shall be authorized to reject any applicant for employment within their respective offices.

"Section 3. Definitions. As used in this Act, unless the context plainly indicates a different meaning, the following words, terms and phrases shall have the meanings respectively ascribed to them: 'County' means Cullman County, Alabama; 'employee' means any person who is employed in the service of the county on a regular full-time basis; 'exempt service' means those employees to whom this Act shall not apply; 'classified service' means those employees to whom the Act shall apply; 'commission' means the county commission of Cullman County; 'board' means the personnel board; 'head of department/office' includes the sheriff, revenue commissioner, probate judge, and chairman of the county commission. Words used in the masculine gender include the feminine and neuter; the singular includes the plural, and the plural the singular.

"Section 4. Personnel System. All employees of the county as herein defined shall be subject to the personnel rules and regulations in or promulgated pursuant to this Act. Present employees and those who may hereafter be employed shall remain in their respective employments during good behavior, efficiency, and adherence to such rules and regulations as may, from time to time, be prescribed by the commission. Nothing herein contained shall be construed to prevent or preclude the transfer or removal of an employee, in the sole discretion of the commission, for the purposes of cost or budget reduction, and no present employee shall be subject to any examination in order to hold his present job.

"Section 5. Powers and Duties of the Commission in Matters Related to Personnel. The commission shall adopt rules and regulations to carry out the purposes of this Act, and to provide for advertising of vacancies, recruitment, selection, hiring, classification, placement, promotion, transfer, demotion, suspension, removal, disciplinary action, appeal, hearings, grievances, and training, and the Commission may, from time to time, make changes in its rules, regulations, and procedures, provided, however, that no rule, regulation, procedure, or policy may be adopted, promulgated, or amended so as to affect a single employee or group or class of employees either adversely or favorably at the expense or to the detriment of other employees. All promotions shall be made by the commission upon the recommendation of the head of the department/office in which the vacancy for the promotion occurs. The commission shall: (1) Classify the different types of service to be performed in the departments and offices of the county; (2) prescribe qualifications, including those of character, education, training, and acquired and demonstrated skills and experience, for appointees of each class; (3) define compensation schedules for the classifications of service; and

(4) allocate each job in the service of the county to its proper classification. The commission shall establish rules, regulations, and procedures governing hiring, employee performance review and evaluation, probationary period, suspension, dismissal, demotion, termination, grievances, appeals, hearings, leave and use of leave, and such rules, regulations and procedures shall have the full force and effect of law and shall govern in all such matters.

“Section 6. The County Personnel Board. There is hereby created the Cullman County Personnel Board, which shall be composed of three members appointed by members of the legislative delegation representing Cullman County. One member shall be appointed initially for a term of two years, one for a term of four years, and one for a term of six years. Their successors shall be appointed to terms of six years. All appointees shall be residents and qualified electors of Cullman County and not less than twenty-five years of age.

“Members of the board shall take the constitutional oath of office, which shall be filed in the office of the probate judge. Vacancies on the board shall be filled in the same manner as original appointments and for the remaining unexpired term of the vacancy. The members of the board shall elect a chairman and secretary annually from among their number. Any member of the board who becomes a candidate for, or is elected or appointed to another public office shall thereby vacate his office as a member of the board.

“Section 7. Powers and Duties of the Board. In addition to the duties set forth elsewhere in this Act, the board shall: (a) Advise the commission on matters of personnel administration, including the development of personnel rules, a job classification plan, and a systematic pay plan; (b) represent the public interest in making recommendations for the improvement of personnel administration in the county service; (c) make any inquiry which it may consider desirable concerning personnel administration in the county service; (d) make recommendations to the commission with respect to any of the foregoing duties in a regular or special called meeting of the commission, with such recommendations becoming matters of public record. The commission shall, within sixty (60) days after the presentation of a recommendation of the board, act upon the same. (e) The board shall maintain adequate records of its proceedings and of its own official acts.

“Section 8. Continuation of Present Rules and Regulations. All rules, regulations, and policies in effect at the time of adoption of this Act which are not in conflict with the provisions hereof shall remain in full force and effect after the effective date of this Act

until the same are altered, amended, or repealed in the manner herein provided. Any rule, determination, regulation, or policy may be amended or repealed in whole or in part by the commission or by Act of the legislature of the State of Alabama.

“Section 9. Compensation of Board Members. Each member of the board shall be paid, from the county treasury, twenty dollars per meeting of the board, plus such mileage as is provided by law to the commission. The commission shall make necessary appropriations from the general fund to pay the reasonable and necessary expenses incurred by the board in the administration of this Act.

“Section 10. Disciplinary Action Against Employees. Any employee may be dismissed, suspended without pay, or demoted by the commission for, but not limited to, any violation of the provisions of this Act or whenever the good of the service will be served thereby or the employee's work, performance, conduct on the job, or insubordinate attitude so warrants; provided, however, that no employee may be suspended without pay for more than fifteen (15) working days at any one time or for more than thirty (30) working days in any one year; and provided further, that no employee shall be dismissed, suspended without pay, or demoted for political considerations other than those enumerated in Section 14 hereof. Any person appointed to a position who shall have secured his certification therefor through fraud shall be removed by the commission and shall not thereafter be eligible for examination for or appointment to any position in the county service except by unanimous consent of the commission. Elected officials of the county shall carry out the provisions of this section as such provisions shall relate to employees in their respective offices. The commission may authorize any department head or other supervisory employee to carry out the provisions of this section, provided, however, that any action to terminate shall only be with the prior written order of the commission. The fact and extent of any other disciplinary action taken by any department head or other supervisory personnel shall promptly be reported to the commission and a record of the same shall be kept in the personnel file of the employee affected by such disciplinary action.

“Section 11. Grievance Procedure. An employee shall have the right to appeal any disciplinary action taken against him, provided, however, that an employee on probationary status shall have no such right unless such employee shall have had permanent status in some other position at the time he was appointed to his present position. An employee desiring to appeal any disciplinary action directed against him shall first exhaust all administrative

remedy as provided by policy of the commission. Upon exhausting all administrative remedy, the employee shall then file his grievance in writing with the commission within seven (7) calendar days of the last final administrative action on his grievance, and shall request a hearing before the personnel board. Within seven (7) calendar days after the receipt of the grievance, the commission shall file with the chairman of the board and mail to the employee by certified mail a statement specifying the charges against such employee on which the disciplinary action was based. Upon the filing of such charges, the said chairman shall call a meeting of the board to be held within thirty (30) days after the filing of such charges to hear such grievance, and shall forthwith give notice by certified mail to the employee and the commission of the time and place of such meeting. The board shall have the authority to continue the hearing from time to time as may be necessary. In preparing for and conducting such hearing, the chairman and secretary of the board shall each have the power to administer oaths, to subpoena and require the attendance of witnesses and the production of books, documents, and accounts pertaining to the grievance.

“Subpoenas issued as herein provided shall be served and the fees and allowances for the services thereof shall be the same as is provided by law for the service of subpoena issued by the circuit court of Cullman County, Alabama. Said fees and allowances in connection with the service of such subpoena issued at the request of the commission upon request of the board shall constitute reasonable and necessary expenses of the board. Any subpoena issued at the request of the employee shall be served as aforesaid, but only after such employee shall have deposited sufficient security with the sheriff or other recognized officer as will guarantee payment of such fees and allowances for such service. Any person failing to obey any summons by either of said officers of the board without good cause, to be determined by the circuit court of Cullman County, Alabama, may be punished by said court in the same method and manner as is provided by law for contempt of said court, and any person failing to obey any such order or subpoena of the court, may be proceeded against by the court as is by law provided in the case of contempt of such court. In addition, any employee of the county who fails to obey any of such orders or subpoenas may be disciplined as provided in Section 10.

“At the hearing before the board, the employee and his department head or supervisor shall each have the right to be represented by counsel, with the county authorized to employ legal counsel to represent the interest of the county. Such hearing shall be governed by rules of practice and procedure as shall be adopted

by the board, and in conducting such hearing, the board shall not be bound by the technical rules of evidence. No informality of procedure in the conduct of such hearing shall invalidate any recommendation made by the board. At the conclusion of the hearing, and within five (5) working days therefrom, the board shall recommend to the commission: (a) That the disciplinary action taken against the employee be affirmed; or (b) that the disciplinary action be reversed and that the employee be reinstated with full back pay at the normal rate of pay that would have been in effect for the employee had he not been suspended without pay; or (c) that the disciplinary action be reduced and that the employee be reinstated either without or with pay for any time he was suspended without pay. Such recommendation shall be in writing to the chairman of the commission, and the commission shall act upon such recommendation at its next regular or special called meeting, with such action becoming a matter of its official and public records. Such action of the commission shall exhaust the employee's private remedy, and any further recourse shall be through the appropriate courts as provided by laws of the State of Alabama.

"Section 12. Exempt and Classified Service. All employees of the county shall be divided into the exempt service and the classified service. The exempt service shall include: (a) The positions of all elected officials of the county; (b) the positions of voluntary personnel and personnel appointed to serve without pay; (c) the positions of consultants rendering temporary professional service; (d) all positions involving seasonal or part-time employment; (e) positions of departmental supervisors; (f) the positions of attorneys rendering legal services; (g) the chief deputy sheriff, the chief clerk of the probate judge, the chief clerk of the revenue commissioner, and the chief clerk of the commission; provided, however, that any such person as enumerated in (g) who has previously attained permanent status in the service of the county shall be entitled to be retained in his previous permanent status position upon removal from such exempt position, provided such removal was for any reason other than for cause as provided herein.

"The classified service shall include all positions in the county service that are paid in whole or in part out of the general fund of the county or from other funds administered or controlled by the commission and which are not in the exempt service. Unless otherwise specifically provided or clearly implied, the provisions of this Act shall apply only to the classified service.

"Section 13. County Road System Employees. In the event that the county commission shall become responsible for the

construction and maintenance of the roads of the county, then in such event any employee who has previously acquired permanent status with the state personnel system with the state highway department and who shall transfer to the employ of Cullman County shall be subject to the provisions of any probationary period adopted by the Cullman County commission; provided, however, that any such employee may, within six months of such employment with the county, transfer without prejudice back to the employ of the state highway department without loss of pay status or any other benefit or right as such employee previously had as such state employee.

“Section 14. Political Activity of Employees. In county elections, no employee shall make, solicit, or receive any assessment, donation, subscription or contribution for any political purpose whatsoever except to exercise his right as a citizen to express his opinion and cast his vote; no employee shall assist any candidate for nomination or election to county office or make any public statement in support of or against any such candidate, or participate in any manner whatever in the campaign of any candidate in any county election; and no employee shall receive any appointment or advancement as a reward for his support of a candidate for office or a political party; nor shall he be dismissed, suspended, or reduced in rank or pay as punishment for his failure to support any candidate for political office. Any employee who shall desire to become a candidate for county office shall, upon qualifying for such office, take leave of absence without pay to campaign for such office. Upon winning any such election, the employee shall resign from his position of employment with the county.

“The provisions of this section notwithstanding, nothing herein contained shall be construed as limiting the activities of county employees in city, state or national elections, nor as prohibiting an employee from being a member, officer, or beat committeeman or committeewoman of a political party; neither shall this Act interfere with any duty such employee might have as such member, officer, beat committeeman or committeewoman.

“Section 15. Commission Rights Not Restricted. Nothing herein contained shall be construed as restricting the right of the commission (1) to increase or decrease proportionately the compensation of all employees; or (2) to use independent contractors for performance of work or the rendering of service to the county.

“Section 16. All laws or parts of laws which conflict with this Act are hereby repealed.



"Section 17. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

"Section 18. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law."

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-550

H. 977—Shavers

### AN ACT

Relating to Jackson County; to allow the county commission to contribute a certain amount of public funds to certain rescue squads in the county and to establish a county board of directors to qualify such squads to receive such contributions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county commission of Jackson County is hereby authorized to appropriate and expend public funds in an amount not to exceed \$2,000 in any fiscal year for the purpose of providing contributions for the use of any organized and established rescue squad operating within the county which shall have been in existence for at least five years on the effective date of this act. After the county commission shall have adopted and recorded in its minutes a resolution to make such contributions, payment shall be made from any funds in the county treasury not otherwise appropriated upon the warrant of the chairman of said commission.

**Section 2.** For purposes of determining the eligibility of rescue squads applying for such contributions, there is hereby established a county board of directors composed of the county civil defense director, the sheriff and the judge of probate who shall serve as ex officio members of such board and without compensation for their services. The county civil defense director shall preside at all board meetings.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 551

H. 960—Grimsley

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Cowarts, in Houston County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of Cowarts in Houston County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

The NE  $\frac{1}{4}$  and SE  $\frac{1}{4}$  of Section 22.

All of Sections 23, 24, & 27.

All of Sections 25 and 35 not presently within the Corporate Limits of Cowarts, Alabama.

The northern  $\frac{1}{2}$  of Section 34, and

The SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ; NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$ ; and SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 36.

All above described lands lying in Township 3 North, Range 27 East and located in Houston County, Alabama.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-552

H. 1008—Shoemaker, Dial, Moore,  
Johnson (R.G.)

### AN ACT

To extend, alter and rearrange the boundary lines and corporate limits of the Town of Lincoln, Talladega County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines and corporate limits of the Town of Lincoln, Talladega County, Alabama, be, and the same are hereby, extended, altered and rearranged so as to include within the corporate limits of said Town all of the following described territory:

The West Half of the Southeast Quarter of the Southeast Quarter ( $W\frac{1}{2}$  of  $SE\frac{1}{4}$  of  $SE\frac{1}{4}$ ) of Section 18: The South Three-Quarters of the West Half of the Southwest Quarter ( $S\frac{3}{4}$  of  $W\frac{1}{2}$  of  $SW\frac{1}{4}$ ) of Section 15: The West Half of the East Half of the Northeast Quarter ( $W\frac{1}{2}$  of  $E\frac{1}{2}$  of  $NE\frac{1}{4}$ ), and the North Half of the Southeast Quarter ( $N\frac{1}{2}$  of  $SE\frac{1}{4}$ ) of Section 19: The North Half of the South Half ( $N\frac{1}{2}$  of  $S\frac{1}{2}$ ), and the West Half of the Southwest Quarter of the Southeast Quarter ( $W\frac{1}{2}$  of  $SW\frac{1}{4}$  of  $SE\frac{1}{4}$ ), and the South Half of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter ( $S\frac{1}{2}$  of  $NE\frac{1}{4}$  of  $SW\frac{1}{4}$  of  $NE\frac{1}{4}$ ), in Section 20: The North Half of the North Half of the Northeast Quarter ( $N\frac{1}{2}$  of  $N\frac{1}{2}$  of  $NE\frac{1}{4}$ ) of Section 29: All in Township 16 South, Range 5 East.

The East Half of the Northeast Quarter ( $E\frac{1}{2}$  of  $NE\frac{1}{4}$ ) of Section 36: That portion of the West Half of the West Half of the East Half ( $W\frac{1}{2}$  of  $W\frac{1}{2}$  of  $E\frac{1}{2}$ ) that is southward of the Southern Railroad right-of-way in Section 26: All in Township 16 South, Range 4 East.

That portion of the South Half of the North Half of the Northeast Quarter ( $S\frac{1}{2}$  of  $N\frac{1}{2}$  of  $NE\frac{1}{4}$ ) that is northward of the Rushing Springs Road in Section 12: All in Township 17 South, Range 4 East.

**Section 2.** That all farm lands annexed by this Act shall be exempt from ad valorem taxation by the Town of Lincoln during the time such land is used for farming purposes.

**Section 3.** All laws or parts of laws which conflict with this

act are hereby repealed.

**Section 4.** This act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-553

H. 1014—Naramore

**AN ACT**

Relating to selling and redeeming lands for taxes in Walker County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this Act shall apply to Walker County.

**Section 2.** The procedure for selling and redeeming lands for taxes in such county shall be the same as provided in Title 40 of the Code of Alabama 1975 as amended, except that all such duties as are required of and are performed by the Judge of Probate shall be transferred to and be performed by the Tax Collector of said County, and the Judge of Probate shall be relieved of all such duties.

**Section 3.** The provisions of this Act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are repealed.

**Section 5.** This act shall take effect on the first day of the month next following the date of its enactment, but it shall not affect proceedings that were begun before such date.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-554

H. 1015—Naramore

**AN ACT**

Relating to Walker County: To amend Sections 3, 4, 9 and 10 and repeal Sections 8, 11 and 12 of Act 356, S. 502, 1971 Regular Session approved August 19, 1971 (Acts

1971, p. 652) as amended, which provides for the construction, maintenance and repair of public roads and bridges in Walker County, so as to earmark ninety five percent of all revenue received by the Walker County Commission from the coal severance tax provided for in Act No. 598 H. 643, 1977 Regular Session (Acts 1977, p. 799) for use and the maintenance in construction of roads in Walker County effective October 1, 1978; so as to provide funds in the County road and bridge fund equally among the commission districts of the county; and, so as to make certain powers vested in the county engineer, subject to the approval of a majority of the members of the County Commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 3 of Act No. 356, S. 502, 1971 Regular Session approved August 19, 1971 (Acts 1971, p. 652 as amended) is hereby amended to read as follows:

“Section 3. It shall be the duty of said engineer to:

(a) employ, supervise and direct all such assistance as authorized by the Walker County Commission to properly maintain and construct the public roads, highways, bridges and ferries in Walker County, prescribe their duties and discharge said employees for cause, or when not needed; provided, all such action under this sub-section shall be subject to the approval of a majority of the members of the Walker County Commission.

(b) perform such engineering and surveying service as may be required, and to prepare and maintain the necessary maps and records;

(c) maintain the necessary accounting records to reflect the cost of the county highway system as instructed by the Walker County Commission.

(d) build, or construct new roads, or change old roads, but only when ordered to do so by proper order of the county commission.”

**Section 2.** Section 4 of said Act No. 356, S. 502, 1971 Regular Session as amended, is hereby amended to read as follows:

“Section 4. Each associate member of the county commission is hereby designated as a person authorized to make written requisition upon the duly designated purchasing agency, for all articles, materials, supplies, and equipment necessary for the maintenance and construction of roads, bridges and ferries located in his district in Walker County.”

**Section 3.** Section 10 of said Act No. 356, S. 502, 1971 Regular Session as amended is hereby amended to read as follows:

“Section 10. Each associate member of the county

commission shall make written requisition to the chairman of the county commission for all materials, machinery, equipment, and necessary supplies needed for the construction, maintenance or repairs of public roads, bridges and ferries of Walker County. Said requisition shall be filed and presented by the chairman to the county commission at its next meeting, for the approval of the county commission. Provided, however, that the chairman shall have full authority and authority to make said purchases without first obtaining the approval of the whole county commission if the delay caused by the hereinabove procedure, might, in his judgment, cause an unnecessary and harmful interruption in the operation of the county road system."

**Section 4.** Section 9 of said Act No. 356, S. 502, 1971 Regular Session as amended, is hereby amended to read as follows:

"Section 9:

(a) Effective October 1, 1978, ninety five percent (95 percent) of all revenue received by the Walker County Commission from the coal severance tax provided for by Act No. 598, H. 643, 1977, Regular Session (Acts 1977, p. 799) is hereby earmarked for the purpose of construction, maintenance and repairs of public roads, bridges and ferries of Walker County.

(b) Said County Commission shall divide the funds of the county road and bridge fund equally among the commission districts of Walker County.

**Section 5.** Sections 8, 11 and 12 of said Act No. 356, S. 502, 1971 Regular Session, are hereby repealed.

**Section 6.** The provisions of this Act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-555

H. 1017—Naramore

AN ACT

(Acts of 1973, p. 1098) as amended, "To revise and reenact Act No. 1504, S. 1103,

Regular Session 1971, (Acts 1971, page 2589, Vol IV), entitled 'Relating to counties having populations of not less than 55,500 nor more than 56,500 inhabitants according to the most recent federal decennial census, fixing the fee for issuance of a pistol permit by the sheriff, and providing for the disposition and use of such fees'; so as to transfer \$150 per month from the law enforcement fund to the district attorney's funds in such counties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 738, H. 1842, 1973 Regular Session (Acts of 1973, p. 1098 as amended, "To revise and reenact Act No. 1504, S. 1103, Regular Session 1971, (Acts 1971, page 2589, Vol. IV), entitled 'Relating to counties having populations of not less than 55,500 nor more than 56,500 inhabitants according to the most recent federal decennial census, fixing the fee for issuance of a pistol permit by the sheriff, providing for the disposition and use of such fees'"; is hereby amended to read as follows:

Section 1. In all counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Section 13-6-155, Code of Alabama 1975, shall be Ten Dollars (\$10.00), which shall be collected by the sheriff and deposited in the county treasury. The fee shall be accredited to the general fund. Two thousand (\$2,000) per year of said fee shall be credited to the law enforcement fund for matching funds and general up grading of law enforcement in said county, and \$150 per month shall be transferred from the law enforcement fund of such counties to the operating funds of the district attorney to be expended by him for the enforcement of the law.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

## AN ACT

Relating to Macon County; providing an annual expense allowance for the judge of the district court; and giving this act retroactive effect to October 1, 1979.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The judge of the district court of Macon County shall receive an annual expense allowance of not more than \$5000.00, payable in equal monthly installments from the general fund of the county. The expense allowance hereinabove provided for shall be the only expense allowance payable to such judge out of the county treasury of Macon County. Provided, however, that the implementation of the provisions of this Act shall be completely discretionary with the county commission.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** The provisions of this act shall be retroactive to October 1, 1979.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-557

H. 1047—Smith (C)

## AN ACT

Relating to Chilton County; providing for an increase in court costs and providing for the disposition of the proceeds from the increase.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Chilton County, in addition to all other fees, there shall be taxed as costs the sum of \$5.00 in each civil or quasi-civil action at law, suit in equity, criminal case, quasi-criminal case, proceedings on a forfeited bail bond or proceedings on a forfeited bond given in connection with an appeal from a judgment or conviction in any inferior or municipal court of the county, in the circuit court of Chilton County, or the district court of Chilton County, hereinafter filed in or arising in the circuit court of Chilton County, or the district court of Chilton County, or brought by appeal, certiorari or otherwise to the circuit court of Chilton County, or the district court of Chilton County, which costs shall be collected as other costs in such cases are collected by the clerk, or ex officio clerk, of said courts or the register of the circuit court of Chilton County, as the case may be. Such fees, when collected by the



clerks or other collection officers of such court, shall be paid into the county fund to be used by the sheriff's department for salaries, equipment and other expenses of the department.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-558

H. 1053—Shavers

### AN ACT

Relating to Jackson County; to amend Act 79-473, Regular Session 1979 (Acts 1979, p. 873) which pertains to the distribution of Tennessee Valley Authority payments in lieu of taxes, so as to distribute certain moneys to the Jackson County Hospital Board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act 79-473, Regular Session 1979 (Acts 1979, p. 873) is hereby amended to read as follows:

"Section 1. Any payments coming into the treasury of Jackson County that are derived, directly or indirectly, from payments by the Tennessee Valley Authority in lieu of the payment of taxes shall be distributed as follows:

"(A) Forty percent of such payments shall be distributed to the public school systems within the county on a per pupil basis.

"(B) Thirty percent of such payments shall be distributed to the incorporated municipalities within the county on a population basis.

"(C) Thirty percent of such payments shall be placed in the general fund in the county treasury and may be used for any of the lawful purposes of Jackson County.

"Provided, however, the first \$120,000 of each year's payments shall be paid to the Jackson County Hospital Board to provide all residents of Jackson County with adequate ambulance service. Said money shall be paid in twelve equal monthly installments to begin on October 1, 1980."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-559

H. 1054—Shavers

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Scottsboro in Jackson County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of Scottsboro in Jackson County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

A description of the perimeter proposed to define the boundary of the proposed city limits encompassing Larkinsville, Alabama and consisting of the following quarter-quarter sections and parts of quarter-quarter sections:

Northeast quarter of the Northeast quarter of Section 20, Township 4 South, Range 5 East, Northwest quarter of the Northeast quarter of Section 20, Township 4 South, Range 5 East, a part of the Northwest quarter of the Northwest quarter of Section 20, Township 4 South, Range 5 East, a part of the Northeast quarter of the Northwest quarter of Section 20, Township 4 South, Range 5 East, part of the Northeast quarter of the Northeast quarter of Section 19, Township 4 South, Range 5 East, part of the Northwest quarter of the Northeast quarter of Section 19, Township 4 South, Range 5 East, part of the Southeast quarter of the Southeast quarter of Section 18, Township 4 South, Range 5 East part of the Northeast quarter of the Southeast quarter of Section 18, Township 4 South, Range 5 East, part of the Northwest quarter of the Southwest quarter of Section 17, Township 4 South, Range 5 East, Southwest quarter of the Southwest quarter of Section 17, Township 4 South, Range 5 East, Southeast quarter of the Southwest quarter of Section 17, Township 4 South, Range 5 East, Southwest quarter of the Southeast quarter of Section 17, Township 4 South, Range 5 East, Southeast quarter of the Southeast quarter of Section 17, Township 4 South, Range 5 East,

Northeast quarter of the Southeast quarter of Section 17, Township 4 South, Range 5 East, Northwest quarter of the Southeast quarter of Section 17, Township 4 South, Range 5 East, part of the Northeast quarter of the Southwest quarter of Section 17, Township 4 South, Range 5 East, part of Southwest quarter of the Northeast quarter of Section 17, Township 4 South, Range 5 east, part of the Southeast quarter of the Northwest quarter of Section 17, Township 4 South, Range 5 East.

All above quarter-quarter sections and partial quarter-quarter sections referenced to the Huntsville Meridian and being in Jackson County, Alabama, and being described as follows:

Commence at the Southeast corner of the Northeast quarter of the Northeast quarter of Section 20, Township 4 South, Range 5 East for a point of beginning and run along the South boundary of the North half of the Northeast quarter of Section 20, Township 4 South, Range 5 East; thence continue along the South boundary of the Northeast quarter of the Northwest quarter of Section 20, Township 4 South, Range 5 East 995.0 feet more or less to a fence corner at the Southeast end of a fence lying between the property of A. L. Petty (deed book 93, page 366) to the East and Walter Latham (Deed book 161, page 199) to the West; thence along said fence in a Northwest direction 1100 feet more or less to the South right-of-way of old U.S. 72 now State road 35; thence along said right-of-way in a Southwest direction 1480 feet more or less to the West boundary of Section 20, Township 4 South, Range 5 East; thence along the Section Line between Section 20 and Section 19 South to the Southeast corner of the Northeast quarter of the Northeast quarter of Section 19, Township 4 South, Range 5 East; thence along the South boundary of the Northeast quarter of the Northeast quarter of Section 19, Township 4 South, Range 5 East to its Southwest corner; thence along the South boundary of the Northwest quarter of the Northeast quarter of Section 19, Township 4 South, Range 5 East 460 feet more or less and to the East margin of a field road (see deed book 166, page 255), thence along said road margin in a Northeast direction to the centerline of the Southern Railroad; thence along said Railroad centerline Northeast 1750 feet more or less to the Section line between Section 19 and Section 18 of Township 4 South, Range 5 East; thence along said Section line West 470 feet more or less to the West property line of the Fred Shelton (deed book 143, page 11); thence along Fred Sheltons West line North 06 degrees 15 minutes West 1200 feet more or less to the North right-of-way of a paved County road (Jackson County #30); thence along the North right-of-way of said road North 73 degrees 45 minutes East 100 feet more or less to the Southwest corner of tract 4 as shown on a map of the J. E. Moody Estate as recorded in

plat book A at page 292 and being the Southwest corner of the property belonging to Max Wilson and described in deed book 230, page 611, thence along Wilson's West line the West line of tract 4 of the J. E. Moody Estate North 679.5 feet more or less; thence East 977 feet more or less; thence South 400 feet more or less along the East line of tract 5 of the J. E. Moody Estate now belonging to Hubert Arnold (deed book 222, page 659 and deed book 228, page 631) and to the Northwest right-of-way of a paved County road; (Jackson County Road #30) thence along the Northwest right-of-way of Jackson County road #30 North 73 degrees 45 minutes East 437 feet more or less; thence along the Northwest right-of-way of an un-numbered road or street North 50 degrees East 1660 feet more or less and to the Southwest corner of a lot belonging to Alvin Metcalf; thence along a fence North 123 feet more or less; thence along a fence North 49 degrees East 150 feet more or less; thence along a fence South 79 degrees East 105 feet more or less and to the Northwest right-of-way of Jackson County road #30; thence crossing said road and to the Southeast right-of-way; thence along the Southeast right-of-way of said road South 38 degrees West 35 feet more or less and to the North boundary of a lot belonging to Alvin Metcalf; thence North 83 degrees 30 minutes East 200 feet more or less; thence South 04 degrees East 140 feet more or less; thence North 78 degrees East 179 feet more or less; thence North 85 degrees East 132 feet more or less; thence South 33 degrees 30 minutes East 204 feet more or less and to the North boundary of the Northwest quarter of the Southeast quarter of Section 17, Township 4 South, Range 5 East; thence along the North boundary of the Northwest quarter of the Southeast quarter of Section 17, Township 4 South, Range 5 East and the North boundary of the Northeast quarter of the Southeast quarter of Section 17, Township 4 South, Range 5 East to the Northeast corner of the Northeast quarter of the Southeast quarter of Section 17, Township 4 South, Range 5 East on the Section Line between Section 17 and Section 16 of Township 4 South, Range 5 East; thence along said Section line South 2600 feet more or less to a point where the City of Scottsboro City Limits joins the proposed Larkinsville City Limits; thence continue on said Section line South 1360 feet more or less to the point of beginning.

The above described boundary encompasses approximately 475 acres.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-560

H. 1089—Reed

AN ACT

Relating to Bullock County; providing further for an expense allowance for the county commissioners.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Bullock County, each member of the county commission elected pursuant to Act No. 262, H. B. 630, 1888 Regular Session (Acts 1888, p. 396), shall be entitled to an expense allowance of \$700.00 a month. Said expense allowance shall be the total expense allowance payable and be in lieu of any expense allowance heretofore provided by law. Said expense allowance shall be payable in equal monthly installments out of the general fund of the county.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-561

H. 1097—Adams (C), Whatley

AN ACT

Relating to Russell County; providing further for the compensation of the tax collector.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Russell County, the county tax collector is hereby entitled to receive an annual compensation in the amount of \$30,000.00. Said compensation shall include a monthly expense allowance of \$500.00. The compensation provided for in this Act shall be in lieu of any and all other salary, compensation and expense allowance heretofore provided by law and be payable from

the general fund of the county in the same manner as other county officers are paid.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-562

H. 1098—Adams (C), Whatley

### AN ACT

Relating to Russell County; amending further Act No. 925, H. 1333, 1969 Regular Session (Acts 1969, p. 1663), which established a law library, so as to provide further for the expenditure of library funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 925, H. 1333, 1969 Regular Session (Acts of 1969, p. 1663), is hereby amended to read as follows:

“Section 1. In any case, action or proceeding hereafter filed, whether at law or in equity in the circuit court of Russell County or in the district court of Russell County, there is hereby authorized to be charged a tax of \$2.00 which tax shall be in addition to all other court costs heretofore authorized to be charged. The costs taxed under this Act shall be collected as other costs in such cases are collected, and when collected by the clerks or other collecting officers of such courts (including the register of the circuit court) shall be by them paid over to the treasurer or depository of Russell County for deposit in the county treasury. The sums so paid over to the county treasurer or depository shall be maintained in a separate fund in the county treasury, designated as the Russell County law library fund, and shall be expended by the judge of the circuit court of Russell County for establishing, maintaining, equipping, and operating a law library in the courthouse at Phenix City, such funds to be expended, in the discretion of the judge, to provide furniture, fixtures, supplies and equipment for the library, and to keep the same in a good state of maintenance and repair; to establish, enlarge, expand, and improve the library and its facilities and equipment; to provide books, reports and periodicals for the library, and to pay the compensation of such personnel as may be

necessary and proper, in the opinion of the judge, to operate the library. Said judge shall be authorized to appoint either the register or the clerk of the circuit court to be librarian. The judge of the circuit court shall draw warrants on the county treasury in making expenditures for the purposes contemplated in this Act, and shall indicate on the warrants the fund against which the warrants are drawn. The said items of costs above referred to shall be designated as law library fee. On or before the tenth day of each month, the clerks or other collecting officers of the respective courts (including the register of the circuit court) shall pay over to the county treasurer or depository all amounts collected as law library fees previously to the first day of the month. The management of the law library is vested in the judge of the circuit court of Russell County, and all books, periodicals, reports and personal property purchased with the funds produced by this Act shall be the property of Russell County, Alabama; provided, however, that said judge may from time to time sell or exchange such books, reports, periodicals, and personal property as may be necessary to keep said library up to date and apply the proceeds of the sale thereof or the value thereof upon the purchase of other books, reports, periodicals, and personal property for use in said library. The judge may accept any gift or loan of any books, reports, periodicals, and other property for public use in said library upon such terms and conditions as may be stipulated by the donor or lender thereof and as may be agreeable to the said judge. Notwithstanding any provision of this Act to the contrary, when in the opinion of the presiding judge, the proper administrator of the court shall require and said judge shall be authorized, in addition, to expend such funds, at the discretion of the judge, for the improvement of or alterations to courtrooms and related facilities; and to provide furniture, fixtures, supplies and equipment for the courtrooms and related facilities, and keep the same in good repair and maintenance."

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Relating to Russell County; to provide that the county commission may authorize a salary supplement for the county district attorney.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county commission of Russell County is hereby authorized and empowered to grant, at their discretion, to the district attorney of said county a salary supplement in an amount not to exceed \$400.00 per month. Said supplement shall be in addition to any other compensation and expense heretofore provided by law.

Said supplement shall be in lieu of the \$2400.00 per year authorized to be paid into the District Attorney's fund under the provisions of Section 4, Act 439, H1117, Regular Session 1975, "Acts of 1975, p. 1054". Said \$2400.00 supplement is hereby repealed.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-564

H. 686—Gafford

### AN ACT

To propose an amendment to the Constitution of Alabama of 1901; to provide that the legislature may pass laws to provide for the termination of alimony upon the remarriage of the spouse receiving the alimony or upon such spouse living openly or cohabiting with a member of the opposite sex; and to provide that such laws may be made to apply retrospectively.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when approved by a majority of qualified electors voting thereon and upon proclamation of the Governor:

### PROPOSED AMENDMENT

The legislature may pass laws to provide for the termination of alimony upon the remarriage of the spouse receiving the alimony or upon such spouse living openly or cohabiting with a member of the



opposite sex. Such laws may be made to apply retrospectively.

**Section 2.** An election upon the proposed amendment is ordered to be held on the date of the general election next succeeding the final adjournment of the current session of the legislature. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama, as amended, and Sections 17-17-1 through 17-17-6 of the Code of Alabama 1975.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office.

### CONSTITUTIONAL AMENDMENT

Passed the House May 1, 1980

Passed the Senate May 19, 1980

---

Act No. 80-565

H.J.R. 305—Amari

### HOUSE JOINT RESOLUTION

DESIGNATING ACT NO. 79-485 AS THE BENNETT AMENDMENT AND ACT NO. 80-375 AS THE BENNETT ACT.

WHEREAS, State Rep. Jim Bennett of Homewood has for the past two years fought hard to bring about increased local support for education, and

WHEREAS, he has brought to the attention of both the legislative and executive branches of government in a forceful way the growing imbalance between state and local revenues for the support of public schools, and

WHEREAS, while Alabama ranks in the top five states in state level school effort it ranks in the bottom five in local support, and

WHEREAS, Rep. Bennett successfully passed HB 653 during the 1979 Regular Session, a constitutional amendment later ratified by voters statewide, allowing local school districts to increase school millage another three mills, and

WHEREAS, Rep. Bennett was also successful in passing HB 41 during the 1980 Regular Session which requires local school

districts to increase local contributions from seven mills to the equivalent of 10; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Act No. 79-485 of the 1979 Legislature is hereby designated as "the Bennett Amendment" and Act No. 80-375 of the 1980 Legislature is hereby designated as "the Bennett Act."

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Rep. Bennett with our deep appreciation for a job well done.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-566

H. 244—Clark, Campbell

### AN ACT

To amend Section 6-2-30 of the Code of Alabama, 1975, which relates to the commencement of civil actions, so as to specify the date on which a civil action for injury to the person or rights of another resulting from exposure to asbestos shall first be deemed to accrue.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Legislative Intent. The purpose of this amendment is to assure that the statute of limitations for injuries or deaths caused by exposure to asbestos, including asbestos-containing products, does not run on any Alabama citizen before that citizen has at least the opportunity to discover that cause of action.

It is the intent of the Legislature that all Alabama citizens suffering the effects of any long-term disease process covered by this Bill should not be prevented by any statute of limitations from recovering the full measure of damages proximately caused by a third party tortfeasor which are allowable under any civil theory of liability, provided action is brought within the statutory period of limitation from the date of accrual.

**Section 2.** Section 6-2-30 of the Code of Alabama 1975, is hereby amended to read as follows:

"§ 6-2-30. All civil actions must be commenced after the cause of action has accrued within the period prescribed in this article and not afterwards, unless otherwise specifically provided for in

this Code.

“A civil action for any injury to the person or rights of another resulting from exposure to asbestos, including asbestos-containing products, shall be deemed to accrue on the first date the injured party, through reasonable diligence, should have reason to discover the injury giving rise to such civil action. This Act shall not apply to or affect in any way, actions referred to in Section 6-5-482 of the Code of Alabama 1975.”

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, and shall apply retroactively to all pending causes of action. Laws or parts of laws inconsistent with this Act are repealed.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-567

H. 1016—Naramore

### AN ACT

To amend Act No. 79-680, H. 1001, 1979 Regular Session (Acts 1979, p. 1211) to provide that supplemental salary for circuit judges paid by the County comprising the Fourteenth Judicial Circuit, shall not be considered in determining relationship between Circuit Clerk and District Judges and Circuit Judges of the Fourteenth Judicial Circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 4 of Act No. 79-680, H. 1001, Regular Session 1979 (Acts 1979, p. 1211) is hereby amended to read as follows:

“Section 4. The provisions of this Act shall not apply to Section 12-17-68 and Section 12-17-92, Code of Alabama, 1975. All laws or parts of laws which conflict with this Act are repealed; and Act 774 S. 638 which was approved on May 23, 1977, is hereby expressly repealed.”

**Section 2.** None of the provisions of this act shall be deemed to have any retroactive effect.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

## AN ACT

To levy a finance charge or a tax of five cents per acre to be assessed against lands located in Walker County, Alabama, which are used for timber growing purposes, to provide protection against forest fires within Walker County; and prescribing the procedure for the collection of such assessments.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) There is hereby levied and assessed a finance charge or tax of five cents per acre to be paid by the owners of forest lands located in Walker County, Alabama, for the use of land for timber growing purposes.

(b) "Forest lands" as used in this Act, shall mean any land which supports a forest growth, or which under prevailing natural and economic conditions may be expected to support a growth in the future, or which is being used or reserved for any forest purpose. "Forest lands" as used in this Act, shall not include any lands primarily used for residential purposes nor shall it include any publicly owned lands.

**Section 2.** The finance charge or tax fixed as provided in the above section shall be payable at the same time and in the same manner as County taxes, and the owners of the "Forest lands", as herein defined, shall make report of the same to the Tax Assessor of Walker County, Alabama, at the time fixed by law for making return of the property of such property owned. Financial charges or taxes levied shall constitute a lien on the property against which they are charged or taxed in case of default in the payment of such financial charge or tax, the land may be sold in the same manner and under the same conditions that lands are sold for the satisfaction of liens for County ad valorem taxes, and redemption from such sale may be effected in the same manner as is provided by law for redemption where land is sold for non payment of ad valorem taxes.

**Section 3.** The County governing body of Walker County is authorized to appoint agents and delegate authority to individuals to search out forest lands in Walker County, to determine the area and owners thereof, and report the same to the Tax Assessor of Walker County who shall be authorized, after notice by certified mail to such owners, and hearing before the County governing body is so requested by such owners, to place said financial charge or tax against the said forest lands as may be determined by the report of such agents or the determination of said County governing body.

**Section 4.** This Act shall become effective immediately upon

its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-569

H. 141—Harvey

### AN ACT

Relating to debtor exemptions; amending Section 6-10-2, Section 6-10-6, Section 6-10-33, Section 6-10-38 and Section 6-10-40 of the 1975 Code of Alabama; providing that the federal exemptions in Section 522(d) of the Bankruptcy Code of 1978 (11 U.S.C. §522(d)) are not available to persons residing in this state; providing that in Bankruptcy, residents of Alabama shall be entitled only to those exemptions provided under the laws of this state and under federal laws other than Section 522(d) of said Bankruptcy Code (11 U.S.C. §522(d)); deeming a mobile home or similar dwelling to be a homestead for homestead exemption purposes; clarifying the allowance of the homestead exemption for a husband and wife; providing a savings clause, providing for severability of the provisions hereof; providing for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In cases instituted under the provisions of Title 11 of the United States Code entitled “Bankruptcy”, there shall be exempt from the property of the estate of an individual debtor only that property and income which is exempt under the laws of the State of Alabama and under federal laws other than Subsection (d) of Section 522 of said Title 11 of the United States Code.

**Section 2.** Section 6-10-2 of the Code of Alabama 1975 is hereby amended to read as follows:

“The homestead of every resident of this state, with the improvements and appurtenances, not exceeding in value \$5,000.00 and in area 160 acres, shall be, to the extent of any interest he or she may have therein, whether a fee or less estate or whether held in common or in severalty, exempt from levy and sale under execution or other process for the collection of debts during his or her life and occupancy and, if he or she leaves surviving him or her a spouse and a minor child, or children, or either, during the life of the surviving spouse and minority of the child, or children, but the area of the homestead shall not be enlarged by reason of any encumbrance thereon or of the character of the estate or interest owned therein by him or her. When a husband and wife jointly own a homestead each is entitled to claim separately the exemption

provided herein, to the same extent and value as an unmarried individual. For purposes of this section and Sections 6-10-38 and 6-10-40, a mobile home or similar dwelling if the principal place of residence of the individual claiming the exemption shall be deemed to be a homestead."

**Section 3.** Section 6-10-6 of the Code of Alabama 1975 is hereby amended to read as follows:

"The personal property of such resident to the extent of the resident's interest therein, to the amount of \$3,000.00 in value, to be selected by him or her, and, in addition thereto, all necessary and proper wearing apparel for himself or herself and family, all family portraits or pictures and all books used in the family shall also be exempt from levy and sale under execution or other process for the collection of debts."

**Section 4.** Section 6-10-33 of the Code of Alabama 1975 is hereby amended to read as follows:

"When, on a contest of a claim of exemption to personal property, the issue is whether or not the claim is excessive and such issue is found in favor of the plaintiff, it must also be ascertained by the finding of the court or the verdict of the jury, as the case may be, how much and what portion of the property is exempt, describing the same with its value, approximating in value as nearly as practicable \$3,000.00, and the residue of the property shall be sold, and out of the proceeds of sale there shall be paid to the defendant an amount which, when added to the value of the property found to be exempt, will make the exemption equal to \$3,000.00, and the balance shall be applied to the payment of the costs and satisfaction of the process."

**Section 5.** Section 6-10-38 of the Code of Alabama 1975 is hereby amended to read as follows:

"(a) If, on the trial of a contest of a claim of homestead exemption, it is found that the homestead as claimed exceeds \$5,000.00 in value (or if a husband and wife have both claimed the exemption to which each is entitled, \$10,000.00), or 160 acres in area, the court shall forthwith issue an order to the sheriff, returnable in 30 days thereafter, commanding him to summon three disinterested householders or freeholders of the county in which the homestead is situated, who, after having been sworn by the sheriff or some officer authorized to administer oaths to faithfully discharge their duty, shall, if practicable, set off and allot, by metes and bounds, the homestead exempt to the defendant from levy and sale under process, having regard both to the quality

and value of the real estate and the selection of the defendant and taking land most contiguous to the dwelling, and including such dwelling and appurtenances. The commissioners, as soon as practicable, shall make return of the homestead so allotted and set off by them, in writing subscribed by them, to the sheriff, who shall make due return thereof to the court issuing the order; and the homestead, thus allotted and set off, shall be released from the levy and the residue of the land sold under the order of the court, unless for good cause shown, the courts shall set aside the commissioners' return, in which event another order for summoning commissioners shall be issued. If the commissioners summoned, or any of them, shall fail to act, the sheriff shall summon others to fill their places.

(b) If the homestead, after having been reduced to its lowest practicable area, still exceeds in value \$5,000.00 (or if a husband and wife have both claimed the exemption to which each is entitled, \$10,000.00) thereby rendering it impracticable to allot and set it off under subsection (a) of this section, the commissioners shall so make return to the sheriff, who shall thereupon proceed, as in other cases, to advertise and offer the same for sale under the process. If at the sale he receives a bid therefor exceeding \$5,000.00 (or if a husband and wife have both claimed the exemption to which each is entitled, \$10,000.00) he shall sell the same, and of the purchase money \$5,000.00 shall be paid to the defendant (or if a husband and wife have both claimed the exemption, \$5,000.00 paid to each), or into the court for him or her, in lieu of the homestead, and the excess only shall be applied to the satisfaction of the process; but if no bid in excess of \$5,000.00 (or if a husband and wife have both claimed the exemption to which each is entitled, \$10,000.00) shall be received, the sheriff shall discharge the levy at the plaintiff's cost and return the process, and thereafter no process issued to enforce the plaintiff's demand shall be levied on such homestead so long as it shall continue a homestead except on the written demand of the plaintiff accompanied by an offer in writing to purchase the same for an amount exceeding \$5,000.00 (or if a husband and wife have both claimed the exemption to which each is entitled, \$10,000.00), which offer must state the amount and, at the election of the defendant, shall be binding on the plaintiff.

(c) When a sale is made under subsection (b) of this section and any defendant dies before receiving their \$5,000.00 standing in lieu of the homestead, the same shall be paid to his or her personal representative, who shall receive and hold it subject to the homestead rights of the defendant's surviving spouse and minor child or children, or either, if there be such; but, if there be none such, the personal representative shall first apply the same to the

payment of the demand for the enforcement of which the process issued, and the balance he shall administer as personal assets of the estate.”

**Section 6.** Section 6-10-40 of the Code of Alabama 1975 is hereby amended to read as follows:

“When the homestead, after being reduced to the lowest practicable area, exceeds \$5,000.00 in value and the husband or wife has aliened the same by deed, mortgage or other conveyance without the voluntary signature and assent of the spouse, shown and acknowledged as required by law, the alienor or, if he or she fails to act, the spouse or, if there is no spouse or if he or she fails to act, their minor child or children may, by filing a complaint, have the land sold and the homestead interest separated from that of the alienee.”

**Section 7.** Savings clause. The provisions of this Act are cumulative, and are in addition to those presently or hereafter provided for in other law or rule of procedure, and shall not be construed to repeal or supersede any laws not directly inconsistent herewith.

**Section 8.** If any provision, section or subsection of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, sections, subsections or applications of this act that which can be given effect without the invalid provisions, sections, subsections or applications, and to this end the provisions of this Act are hereby declared severable.

**Section 9.** This Act shall take effect immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-570

S. 309—Proctor, Parsons, Cook and Vacca

### AN ACT

To amend Sections 16-54-16, 16-54-17 and 16-54-18 of the Code of Alabama 1975 relating to the University of Montevallo so as to provide for the establishment of certain endowment funds dedicated to the use of the university.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 16-54-16, 16-54-17 and 16-54-18 of the Code of Alabama 1975 are hereby amended to read as follows:



“§16-54-16.

“The lands now owned by the University of Montevallo or granted by the United States or by the congress of the United States to the state of Alabama for the use of this institution, shall be leased, sold, conveyed or disposed of only by the board of trustees; provided, that the board of trustees may delegate to its executive committee of three or more of its members the right and power to lease or sell any of said lands, and when any lease or sale shall have been made as herein provided, the governor, upon request of the board of trustees, or its executive committee, as the case may be, shall execute contracts of lease or deeds of conveyance as may have been agreed on between the board or its executive committee and the lessee or purchaser. All the proceeds arising from the sale, rental or lease of federally granted lands, or any of the rights thereunto pertaining shall be paid into the University of Montevallo Restricted Endowment, it being the purpose and intent of the university to preserve the principal amount generated by these lands. Any income generated by the University of Montevallo Restricted Endowment shall be used for the support and maintenance of the university.”

“§16-54-17.

“The proceeds of all non-federally granted lands sold or leased by the University of Montevallo, or income therefrom, shall be paid into the University of Montevallo Endowment Fund. The university, out of the money appropriated by the state legislature for its maintenance, shall pay all the expenses of caring for, protecting and selling the lands.”

“§16-54-18.

“Upon the effective date of this act, the treasurer of the state shall pay to the treasurer of the University of Montevallo the whole amount of the fund in the treasury generated by proceeds from both federally granted and other lands dedicated to the benefit of the University of Montevallo. These funds shall be deposited into the University of Montevallo Restricted Endowment Fund.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-571

S. 360—Bailey, Gullledge, Taylor,  
 Lemaster, Harrison, Britnell,  
 Denton, Robertson, Keener,  
 Proctor, Higginbotham,  
 deGraffenried, Parsons, Little,  
 Hall, Holmes, St. John, White,  
 Cook, Vacca, McDonald,  
 Figures, Goodwin and Kirkland

## AN ACT

To amend Section 36-30-2, Code of Alabama 1975, which compensates survivors of firemen and peace officers killed in the line of duty, so as to extend the eligibility period.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-30-2, Code of Alabama 1975, is hereby amended to read as follows:

“§36-30-2.

“In the event a peace officer or a fireman is killed, either accidentally or deliberately, or dies as a result of injuries received while engaged in the performance of his duties, his dependents shall be entitled to compensation in the amount of \$10,000.00, to be paid from the state treasury as provided in section 36-30-3, unless such death was caused by the willful misconduct of the officer or was due to his own intoxication or his willful failure or refusal to use safety appliances provided by his employer or his willful refusal or neglect to perform a statutory duty or any other willful violation of a law or his willful breach of a reasonable rule or regulation governing the performance of his duties or his employment of which rule or regulation he had knowledge. Any peace officer or any fireman whose death results proximately and within three years from an injury received while performing his duties shall, for the purposes of this article, be deemed to have been killed while in the performance of such duties. Said three year limitation shall be extended to ten years.”

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-572

S. 576—Taylor

## AN ACT

Relating to Lowndes County; authorizing the County Commission to levy an additional privilege or license tax on persons, firms and corporations, selling, distributing or delivering malt or brewed beverages to retailers in Lowndes County; providing for the assessment, collection and distribution of the proceeds of the tax; authorizing the adoption and promulgation of rules and regulations therefor by the county commission of said county; defining violations of the act and prescribing penalties therefor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Lowndes County Commission is hereby authorized to levy a privilege or license tax on all persons, firms and corporations, selling, distributing or delivering to retailers in Lowndes County, any malt or brewed beverages (including beer, lager beer, ale, porter, or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume), which tax shall be in an amount equal to one cent (\$.01) on each twelve (12) fluid ounces or fractional part thereof, sold or distributed within the county, including that sold or distributed within all municipalities located in the county. Such tax shall be in addition to all other taxes heretofore levied on the sale and distribution of such beverages in said county.

**Section 2.** Any privilege or license tax levied by this act shall be collected by or under the supervision of the county commission of Lowndes County. Said commission shall provide rules and regulations and administrative machinery for the enforcement and collection of the privilege or license tax levied by this act.

**Section 3.** Any person, firm, or corporation who violates any provision of this act or any rule or regulation adopted pursuant to this act, shall be guilty of a Class B misdemeanor and upon conviction shall be punished as prescribed by law. Each month such violation continues shall constitute a separate offense. Any person, firm or corporation who fails to pay the tax herein levied within the time prescribed by such rules and regulations shall pay, in addition to the tax, a penalty of ten percent (10%) of the amount of tax, together with interest thereon at the rate of one percent per month or fraction thereof, from the date on which the tax herein levied became payable, such penalty and interest to be assessed and collected as a part of the tax.

**Section 4.** The Lowndes County Commission shall, between the first and fifteenth day of each month, deposit the proceeds of said tax in a special Juvenile Services Trust Fund Account, which shall only be expended upon written request by the District Court

Judge presiding over the county juvenile justice system and approval of the county commission for the purpose of providing county juvenile detention and group home facilities, payment for legal services to juveniles, employing and training juvenile personnel, training expenses, offices and supplies, recreation facilities, or any other purpose promoting juvenile services in Lowndes County except those expenditure items which are normally funded by the unified court system budget and fund.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** This act shall become effective on the first day of the second month next following its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-573

S. 513—Keener

### AN ACT

Prescribing a certain county salary supplement for each circuit judge in the sixteenth judicial circuit; providing that such supplement shall be in lieu of all other expense allowances and salary supplements heretofore provided by law for such judges and providing that such supplements shall be paid in equal monthly installments from the general fund of the county within said circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each circuit judge of the sixteenth judicial circuit shall be entitled to receive the maximum county salary supplement allowed by law in section 12-17-30 of the Code of Alabama 1975 for circuit judges in this state and each judge in said circuit shall hereafter be entitled to automatically receive, without further legislative action, any increase in the amount of such supplement which results from any amendment to said Code section or passage of any Act of the legislature which supersedes said Code section.

**Section 2.** The county salary supplements provided for in Section 1 of this Act shall be paid from the general fund of the county within said circuit in equal monthly installments and shall be in lieu of all county salary supplements and expense allowances,

excluding travel mileage reimbursements, heretofore provided by law for the judges in said circuit.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-574

S.J.R. 112—Martin

#### SENATE JOINT RESOLUTION

#### CREATING THE LAWRENCE COUNTY ELECTED AND APPOINTED OFFICIALS SALARY COMMISSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there be and hereby is established in Lawrence County, a Commission to be known as The Lawrence County Elected and Appointed Officials Salary Commission, hereinafter called "The Commission."

The Commission shall be composed of five (5) members with two of its members from government, two members from business, and a chairman. The members from business and government shall include one lawyer, a manager, and a salary administrator. Its membership shall be appointed by the Lawrence County Legislative Delegation.

The chairman shall preside over all meetings. The Commission shall make its own rules for the conduct of business. The initial meeting shall be held at the call of the chairman. Members of The Commission shall serve without compensation. Their appointment to this Commission shall expire on January 1, 1982.

The objective of The Commission will be to provide information and recommendations regarding salaries of Lawrence County elected and appointed officials. The specific objectives of The Commission shall be described by the Lawrence County Legislative

Delegation.

Approved May 19, 1980

Time: 5:00 P.M.

Act No. 80-575

S.J.R. 180—Mitchem

### SENATE JOINT RESOLUTION

NAMING THE ALABAMA NATIONAL GUARD ARMORY, NOW UNDER CONSTRUCTION AT ARAB, ALABAMA, IN HONOR OF COLONEL WILBUR B. FOWLER, RETIRED.

WHEREAS, the Alabama National Guard Armory at Arab, Alabama, bears the name of Colonel Wilbur B. Fowler, who served with distinction in the Alabama National Guard from May 1936 until his retirement on August 6, 1968; and

WHEREAS, mobilized in 1940 and commissioned as a Second Lieutenant in 1942, Wilbur Fowler served three years as an officer in the South Pacific during World War II; following the war, he formed the first guard unit in Arab, Alabama, in 1947, commanding the unit until 1951, at which time the unit was mobilized during the Korean conflict; and

WHEREAS, he was separated from active duty in September, 1952, and resumed command of Battery C 279th AAA Battalion in Arab; following his separation from active National Guard duty, he continued serving the Alabama Guard as a special reserve officer until 1974, ending 38 years of continuous and distinguished military service to Alabama and our nation; and

WHEREAS, Colonel Fowler has remained actively interested in the Alabama Guard and most particularly the Arab unit facility which bears his name; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in fitting tribute to Colonel Wilbur B. Fowler, Retired, and in gratitude for his faithful service, we hereby name and designate the new National Guard Armory, under construction at Arab, Alabama, "Fort Wilbur B. Fowler."

BE IT FURTHER RESOLVED, That the proper authorities are hereby directed to erect appropriate signs and markers so designating said Armory as "Fort Wilbur B. Fowler."

RESOLVED FURTHER, That a copy of this resolution be forwarded to Colonel Fowler evidencing this honorary designation in gratitude for his service.

Approved May 19, 1980

Time: 5:00 P.M.

---

Act No. 80-576

S.J.R. 181—Teague

SENATE JOINT RESOLUTION

CREATING THE JOINT INTERIM COMMITTEE OF THE LEGISLATURE TO STUDY THE REORGANIZATION OF THE PUBLIC SERVICE COMMISSION.

WHEREAS, there is a continued need to further investigate the reorganization of the Alabama Public Service Commission; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby established a Joint Interim Committee of the Legislature to study the reorganization of the Public Service Commission. For purposes of continuity, said committee shall be composed of the same individual members of the House of Representatives and the Senate that constituted the Joint Legislative Committee to study the reorganization of the Alabama Public Service Commission created by Act No. 80-119, HJR 106, 1980 Regular Session. Said joint interim committee shall report its findings, conclusions and recommendations on or before the sixth legislative day of the 1981 Regular Session.

The Clerk of the House and the Secretary of the Senate shall furnish the committee with any necessary clerical assistance and supplies needed by the committee in performing its duties to be paid from funds appropriated to the use of the Legislature. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the Legislature, on warrants drawn on the state comptroller upon requisition signed by the committee's chairman. The total amount that may be expended by the committee shall not exceed \$9,000.00, and an appropriation is hereby made to such extent.

Approved May 19, 1980

Time: 5:00 P.M.

Act No: 80-577

H. 1065—McMillan, Penry

## AN ACT

Relating to Baldwin County; to provide for the salary of the Judge of Probate.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Judge of Probate of Baldwin County, Alabama, shall be entitled to receive in lieu of any fees, percentages and allowances an annual salary equal to \$2,000 per annum less than the total compensation of the presiding Circuit Judge in said County, which compensation includes State salary, local supplement and expense allowances.

**Section 2.** This Act shall supersede all other laws or parts of laws in conflict herewith, insofar as they relate to the annual salary of the Judge of Probate of Baldwin County, Alabama.

**Section 3.** This Act shall become effective upon the signature of the governor or upon its otherwise becoming a law.

Approved May 23, 1980

Time: 1:30 P.M.

Act No. 80-578

S. 512—Gulledge

## AN ACT

To amend Section 1-3-8 of the Code of Alabama 1975, relating to state holidays and providing for bank closings on certain holidays so as to change the date on which state banks may be closed in observance of National Memorial Day.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1-3-8 of the Code of Alabama 1975, is hereby amended to read as follows:

“§1-3-8.

“(a) Sunday, Christmas day, New Year’s day, Robert E. Lee’s birthday, George Washington’s birthday, Thomas Jefferson’s birthday, Mardi Gras, Confederate Memorial day, Jefferson Davis’ birthday, the Fourth day of July, Labor day, Columbus day and Fraternal day, Veterans’ day and the day designated by the governor for public thanksgiving shall each be deemed a holiday. If any holiday falls on Sunday, the following day is the holiday. Veterans’ day shall be observed by the closing of all state, county and municipal offices, all banks located within this state and the



public schools on such day. The superintendent of banks, with the concurrence of not less than two members of the state banking board, may authorize any state bank to close on National Memorial Day, the last Monday in May, and on such other days as may be declared by the governor to be state holidays in honor of a special event. In the event any authorized state holiday falls on Friday, the superintendent of banks may authorize the Saturday following that Friday to be a holiday. The superintendent may also authorize the closing of banks at 12:00 noon on the day prior to Christmas day and the day prior to New Year's day, if such days fall on business days.

“(b) Of the above enumerated legal public holidays, the following shall be observed on the dates herein prescribed:

“(1) Robert E. Lee's birthday—the third Monday in January.

“(2) George Washington's birthday—the third Monday in February.

“(3) Confederate Memorial day—the fourth Monday in April.

“(4) Jefferson Davis' birthday—the first Monday in June.

“(5) Columbus day and Fraternal day—the second Monday in October.

“(6) Veterans' day—the eleventh day of November.”

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 23, 1980

Time: 1:45 P.M.

---

Act No. 80-579

S. 377—Parsons

### AN ACT

To amend Section 20-2-75 of the Code of Alabama 1975, Alabama's Uniform Controlled Substances Act, so as to change the provisions relating to possession of and transactions in drug related objects; to change the definitions of certain terms; to change the penalties; to prohibit certain activities relating to drug related objects; to provide for defenses; to declare certain instruments, devices, and objects to be contraband; to provide for severability; to provide for other matters relative to the foregoing; to provide for an effective date; to repeal conflicting laws; to provide for forfeiture for objects possessed, sold or given away in violation hereof; and for other purposes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 20-2-75 of the Code of Alabama 1975, is hereby amended to read as follows:

“§20-2-75.

“(1) ‘Drug related object’ means any instrument, device, or object which is designed, produced or marketed as useful primarily for one or more of the following purposes:

“(A) To inject, ingest, inhale, or otherwise introduce into the human body marijuana or a controlled substance;

“(B) To enhance the effect on the human body of marijuana or a controlled substance;

“(C) To test the strength, effectiveness, or purity of marijuana or a controlled substance;

“(D) To process or prepare for introduction into the human body marijuana or a controlled substance;

“(E) To conceal any quantity of marijuana or a controlled substance;

“(F) To contain or hold marijuana or a controlled substance while it is being introduced into the human body.

“(2) It shall be unlawful for any person or corporation, knowing the drug related nature of the object, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person any drug related object. It shall also be unlawful for any person or corporation, knowing the drug related nature of the object, to display for sale, or possess with the intent to distribute, any drug related object. Unless stated within the body of the advertisement or notice that the object that is advertised or about which information is disseminated is not available for distribution of any sort in Alabama, it shall be unlawful for any person or corporation, knowing the drug related nature of the object, to distribute or disseminate in any manner to any person any advertisement of any kind or notice of any kind which gives information, directly or indirectly, on where, or how, or from whom, or by what means any drug related object may be obtained or made. ‘Knowing’ as used herein means either actual or constructive knowledge of the drug related nature of the object, and a person or corporation has constructive knowledge of the drug related nature of the object if he or it has knowledge of facts which would put a reasonable and prudent person on notice of the drug related nature of the object.

“(3) It shall be unlawful for any person or corporation, other than a licensed pharmacist or practitioner licensed to dispense

legend drugs, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person a hypodermic syringe or needle designed or marketed primarily for human use. It shall be an affirmative defense that the hypodermic syringe or needle was marketed for a legitimate medical purpose.

“(4) It shall be an affirmative defense that the person to whom the drug related object or advertisement or notice was distributed had a prescription from a licensed medical practitioner or psychiatrist for marijuana or the controlled substance for which the object is primarily intended to be used. It is also an affirmative defense that the drug related object was designed or marketed as useful primarily for veterinary or agricultural purposes.

“(5) For a first offense, any person or corporation which shall violate any provision of this section shall be guilty of a Class A misdemeanor. For a second offense, the defendant shall be guilty of a Class C Felony.

“(6) All instruments, devices, and objects which are distributed or possessed in violation of this section are hereby declared to be contraband and subject to forfeiture as provided for in Section 20-2-93 of the Code of Alabama 1975.”

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 23, 1980

Time: 2:30 P.M.

---

Act No. 80-580

H. 937—Carothers

### AN ACT

To make an appropriation from the state general fund for the relief of Patricia Rutherford who was gravely injured as a result of a bullet fired by a member of the Alabama National Guard in the aftermath of Hurricane Frederic.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The sum of one hundred thousand dollars

(\$100,000.00) is hereby appropriated from the general fund in the state treasury not otherwise appropriated for the relief, use and benefit of Patricia Rutherford who was gravely injured as a result of a bullet fired by a member of the Alabama National Guard in the aftermath of Hurricane Frederic. Provided, however, that any sums recovered and actually collected through any pending legal proceeding by Patricia Rutherford against Walter Dyess shall reduce the said appropriation in a like amount. After several major surgical operations, Patricia Rutherford is still convalescing and faces additional operations in the future. The legislature finds and declares that the injuries sustained by the said Patricia Rutherford, occurred under such circumstances as to constitute a moral and just claim against the State of Alabama, yet the claimant has no recourse at law. The comptroller is hereby authorized and directed to draw a warrant in favor of the said Patricia Rutherford for the amount herein stated.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 19, 1980

Time: 9:05 P.M.

---

Act No. 80-581

S. 618—Harrison

### AN ACT

To amend Section 1 of Act No. 388, H. 979, 1978 Regular Session, entitled "An Act Relating to Elmore County; providing further for the salaries and expense allowances of the deputies of the sheriff's department, and providing payment out of the county funds, so as to increase the salaries of the deputies of the sheriff's department."

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 388, H. 979, 1978 Regular Session (Acts 1978, p. 375) is amended to read as follows:

"Section 1.

"(a) Deputies of the sheriff's department of Elmore County shall be compensated on the basis of years of continuous service according to the following table:

Years of Continuous Service	Monthly Salary	Monthly Expense Allowance
0-3	\$ 890.00	\$50.00
3-5	\$ 940.00	\$50.00
5-7	\$ 990.00	\$50.00
7-10	\$1,040.00	\$50.00
10 or more	\$1,090.00	\$50.00

“(b) The chief deputy shall receive an additional \$100.00 per month, and \$50.00 per month expense allowance.

“(c) The assistant chief deputy shall receive an additional \$50.00 per month and \$50.00 per month expense allowance.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 27, 1980

Time: 3:25 P.M.

Act No. 80-582

S. 354—Holmes

### AN ACT

To promote the conservation of the state's petroleum resources and to encourage the use of alternative motor fuels, and to accomplish such measures by offering a tax incentive in the form of a reduced rate of taxation on the motor fuel known as “gasohol,” as defined herein.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is the express intent of this legislature to promote the conservation of the state's petroleum resources and to encourage the usage of alternative fuels for motor vehicles in this state. In order to accomplish the intent herein expressed, and to provide an incentive for those individuals who participate in such a conservation effort, there shall be a reduced rate of excise tax on the motor fuel “gasohol” as hereinafter provided.

**Section 2.** “Gasohol” as used in this Act shall mean a motor fuel containing a minimum of ten percent blend of ethyl alcohol of a purity of at least ninety-nine percent denatured in conformity with one of the approved methods set forth by the U. S. Department of the Treasury, Division of Alcohol, Tobacco and Firearms and derived from agricultural or forest products or other renewable resources.

**Section 3.** Notwithstanding the other provisions of Chapter 17 of Title 40 of the Code of Alabama 1975, the amount of excise tax on gasohol shall be three cents per gallon less than gasoline. The reduced rate of taxation granted by this section for gasohol shall also apply to gasohol manufactured or distilled in another state, if that state reduces the rate of taxation or exempts from its motor fuel tax gasohol manufactured or distilled within the State of Alabama. For all other purposes other than the amount of excise tax, the term "gasohol" shall be included within the term "gasoline" as defined in Section 40-17-30 of the Code of Alabama 1975.

**Section 4.** The provisions of this Act are supplemental and shall not be construed to repeal any law not in direct conflict herewith.

**Section 5.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** This Act shall become effective upon the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 9:00 A.M.

---

Act No. 80-583

S. 453—deGraffenried and Cook

### AN ACT

To amend Section 12-17-61, Code of Alabama 1975, relating to the number of district court judges, so as to provide two district court judges for Tuscaloosa County and to provide for the time of establishment of such judgeship No. 2 and for the election of such additional district judge.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-17-61, Code of Alabama 1975, is hereby amended to read as follows:

"§ 12-17-61. Each county shall constitute a district and shall have one resident district judge, except that:

"(1) Baldwin, Madison, Etowah, Morgan, Talladega, Tuscaloosa and Walker Counties shall each have two resident district judges.

"(2) Montgomery County shall have three resident district judges.

“(3) Mobile County shall have four resident district judges.

“(4) Jefferson County shall have 12 resident district judges, who shall be nominated and elected in the manner provided by law for the nomination and election of circuit judges in the county. Three of such district judges shall serve in the Bessemer division and nine shall serve in the Birmingham division.

“(5) Calhoun and Cleburne Counties shall constitute a district and shall have three resident district judges who shall be elected and run at large from both counties.

“(6) Coosa and Clay Counties shall constitute a district and shall have one resident district judge who shall be elected and run at large from both counties.”

**Section 2.** There is hereby created and shall be established immediately after the general election in 1980, the office of District Judgeship No. 2 of Tuscaloosa County, which shall be in addition to the one judgeship now existing. The existing judgeship shall be designated District Judgeship No. 1. The first judge of said additional District Judgeship No. 2 of Tuscaloosa County shall be elected at the general election in 1980 in the manner provided by law and such judge shall hold office until a successor has been elected at the next regular election for district judges and has qualified. Thereafter, successors shall be elected at the same time and for the same term prescribed by law for the other district judge.

**Section 3.** The judge of said District Judgeship No. 2 shall have and exercise all of the jurisdiction, powers, rights and authority and possess all the qualifications, perform all the duties, and be subject to the pains, obligations and penalties that other district judges may be subject to exercise and perform. The additional district judge provided for in this Act shall receive the same salary and supplements payable in the same manner as the existing district judge of Tuscaloosa County.

**Section 4.** There is hereby appropriated the sum of \$48,778 for the fiscal year 1980-81 from the general fund of Alabama for the support and maintenance of the office of District Judgeship No. 2 of Tuscaloosa County.

**Section 5.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 7.** This Act shall become effective October 1, 1980, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 9:00 A.M.

---

Act No. 80-584

H. 621—McKee, Holmes

AN ACT

Relating to the Fifteenth Judicial Circuit; to allow the Presiding Judge or the Presiding Judge of the Criminal Division of the Fifteenth Judicial Circuit, upon motion of the District Attorney for such circuit, to empanel more than one Grand Jury to sit in session simultaneously.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Presiding Judge or the Presiding Judge of the Criminal Division of the Fifteenth Judicial Circuit, upon motion of the District Attorney for such circuit, shall empanel as many additional Grand Juries for such circuit to sit or be in session simultaneously or otherwise for such duration of time and for such purposes as may be necessary for the orderly and expeditious presentation of criminal cases therein.

**Section 2.** The empanelling of such additional Grand Juries as provided herein shall not operate so as to discharge or dissolve any other Grand Jury which may be then or thereafter in session unless specifically ordered by the court on motion of the District Attorney for such circuit.

**Section 3.** All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

**Section 4.** The provisions of this act are severable. If any part of this act is declared unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 28, 1980

Time: 9:45 A.M.

---



## AN ACT

To authorize and provide for the incorporation of the Alabama Housing Finance Authority for the purpose of making available at lower interest rates funds for the financing of single and multi-family dwelling units for low and moderate income families; to provide for the members, officers and directors of the Authority; to provide for the powers, authorities and duties of the Authority and its board of directors; to provide for the appointment of a committee advisory to the board of directors; to authorize the Authority to purchase notes and other instruments evidencing indebtedness secured by mortgages, deeds of trust, and other instruments granting security interests in such single and multi-family dwelling units for low and moderate income families and to make loans to mortgage lenders for making such loans; to authorize the Authority to foreclose such mortgages, deeds of trust, or other security interests and exercise all other rights in the enforcement thereof and in realizing upon the security provided thereby; to authorize the Authority to make contracts with others for the origination and servicing of such loans represented by notes or other instruments evidencing such loans; to provide for the issuance by the Authority for any of its corporate purposes of interest-bearing revenue bonds and other interest-bearing securities, payable out of the revenues and property of the Authority; to provide that such securities shall constitute negotiable instruments; to provide that such securities may be secured by a pledge of the revenues from which they are payable, by contracts binding the Authority to the proper application of its revenues and of the proceeds of such securities, and by mortgages and deeds of trust and trust indentures on property of the Authority; to provide for the employment by the Authority of such employees and agents as its business may require; to provide for the taking out by the Authority of various types of insurance and the creation of various reserves; to provide for the investment of the funds of the Authority; to authorize the sale or conveyance by the Authority of any of its properties; to provide for the use of the proceeds of any such securities issued by the Authority; to provide for the refunding of securities theretofore issued by the Authority; to provide that the Authority may not issue bonds (other than refunding bonds) subsequent to March 31, 1982, except as authorized by Act of the Legislature regularly enacted into law; to provide that such securities issued and contracts entered into by the Authority pursuant to this Act shall not constitute or create a debt of the State; to make the securities issued by the Authority eligible investments for various governmental bodies and fiduciaries; to provide for the applicability of certain provisions of the Alabama Uniform Commercial Code to certain transactions entered into by the Authority; to exempt the property and income of the Authority and all securities issued by the Authority and the income from such securities, and conveyances, leases, mortgages and deeds of trust, assignments and other instruments to which the Authority is a party, from all taxation in the State; to exempt the Authority from all taxes, including license and excise taxes, levied by any county, municipality, or other political subdivision of the State, and to exempt the Authority from payment of certain charges to judges of probate; to exempt the Authority from all laws of the State governing usury or prescribing or limiting interest rates; to exempt the Authority from all laws of the State requiring competitive bids for contracts to be entered into by public corporations; to exempt the Authority from the supervision and control of any State agency; to provide for the disposition of the earnings, if any, of the Authority; and to provide that members of the board of directors of the Authority shall disclose potential conflicts of interest and refrain from participating in actions or proceedings in which they have an interest.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Legislative Findings and Declaration of Purpose.** It is hereby found and declared that from time to time there has existed and at the present time there exists an inadequate supply of funds at interest rates sufficiently low to enable the financing of safe and sanitary single and multi-family dwelling units for citizens of this State with low and moderate income; that the inability to finance such single and multi-family dwelling units results in an inability of builders to construct such housing causing unemployment or underemployment in the housing construction and related businesses and causes a lack of safe and sanitary housing to be available to persons of low and moderate income; that such unemployment or underemployment in the housing construction and related businesses and an inadequate supply of safe and sanitary housing for persons of low and moderate income wastes human resources, increases the public assistance burden of the State, impairs the security of family life, impedes the economic and physical development of the State, adversely affects the welfare and prosperity of all of the people of the State and accordingly creates and fosters conditions adverse to the general health and welfare of the citizens of the State; that the making available in the manner provided in this Act of a more adequate supply of funds at interest rates sufficiently low to enable the financing of safe and sanitary single and multi-family dwelling units for citizens of low and moderate income will result in the alleviation or reduction of the adverse consequences which have resulted and may result from continued unemployment and underemployment in the housing construction and related businesses and the inadequate supply of such housing for persons of low and moderate income. It is hereby further found and determined that the conditions adverse to the general health and welfare of the citizens of the State as noted above can best be solved by a cooperative effort as provided herein between the Authority acting on behalf of the State and those engaged in the business of making mortgage loans and such is the purpose of this Act and it is not the intent of the legislature that the Authority have the power to make direct loans to individuals or to acquire or construct housing units for lease or sale or that the Authority have urban development or slum clearance functions, although its functions under this Act are expected to be complementary to and supportive of those functions.

**Section 2. Definitions.** The following words and phrases used in this Act, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

“Authority” means the public corporation and instrumentality

of the State organized pursuant to the provisions of this Act.

“Authorized Investments” means bonds or other obligations of or guaranteed by, the United States of America or the State, or interest bearing bank and savings and loan association deposits, obligations of any agency of the United States of America, any obligations in which a state chartered savings and loan association may invest its funds, any agreement to repurchase any of the foregoing, or any thereof.

“Bonds” means and shall include bonds and other securities representing an obligation to pay money.

“Board of Directors” means the Board of Directors of the Authority.

“Eligible Housing Unit” means real and personal properties located in the State constituting a single or multi-family dwelling unit for occupancy by Low and Moderate Income Families.

“Low and Moderate Income Families” means persons and families of one or more persons, irrespective of race, creed, national origin or sex, determined by the Authority to require such assistance as is made available by this Act on account of insufficient personal or family income taking into consideration, without limitation, such factors as follows: (a) the amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the ability of such persons and families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing, and (e) if appropriate, standards established for various Federal programs with respect to housing determining eligibility based on income of such persons and families.

“Mortgage Lenders” means national banking associations, banks chartered under the laws of the State, savings or building and loan associations chartered under the laws of the State or of the United States of America, Federal National Mortgage Association approved mortgage bankers, and Federal or State credit unions, and shall include other financial institutions or governmental agencies which customarily originate or service Mortgage Loans and Mortgages.

“Mortgage Loans” means notes and other evidences of indebtedness secured by Mortgages.

“Mortgaged Property” means all properties, real, personal and mixed, and all interests therein including grants or subsidies with

respect thereto, mortgaged, pledged or otherwise provided in any manner as security for (i) Mortgage Loans or (ii) loans to Mortgage Lenders.

“Mortgages” means mortgages, deeds of trust and other instruments granting security interests in real and personal properties constituting Eligible Housing Units.

“Multi-Family Mortgage Loans” means mortgages on Eligible Housing Units constituting residential dwelling units leased to or occupied by more than one family unit.

“Single Family Mortgage Loans” means mortgages on Eligible Housing Units constituting residential dwelling units occupied as the principal residence of the owner mortgagor by a single family unit, including, without limitation, detached single family houses, attached single family houses or townhouses, and condominium units within larger structures.

“State” means the State of Alabama.

**Section 3. Use of Phrases.** The following provisions shall be applied wherever appropriate herein:

“Herein”, “hereby”, “hereunder”, “hereof”, and other equivalent words refer to this Act as an entirety and not solely to the particular section or portion thereof in which any such word is used.

The definitions set forth in Section 2 hereof shall be deemed to include both singular and plural and to cover all genders.

**Section 4. Incorporation of the Authority Authorized.** (a) The nine persons initially designated as members of the Authority may become a corporation with the power and authority hereinafter provided by proceeding according to the provisions of this Act. To become a corporation, the persons so designated shall present to the Secretary of State of the State an application signed by them which shall state:

(1) That the applicants propose to incorporate the Authority pursuant to this Act;

(2) The name and official residence of each of the applicants;

(3) The date on which each applicant was appointed as a member by the Governor and the expiration date of the term for which he was appointed;

(4) The name of the proposed corporation, which shall be “Alabama Housing Finance Authority”;

(5) The location of the principal office of the proposed

corporation, which shall be in the City of Montgomery; and

(6) Any other matter relating to the Authority which the applicants may choose to insert and which is not inconsistent with this Act or the laws of the State.

(b) The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of the State to take acknowledgements to deeds. The Secretary of State shall examine the application, and if the Secretary of State finds that it substantially complies with the requirements of this section, he shall receive and file it and record it in an appropriate book of records in his office.

(c) When the application has been made, filed and recorded as above provided, the applicants shall constitute a corporation under the name stated in the application, and the Secretary of State shall make and issue to the applicants a certificate of incorporation pursuant to this Act, under the great seal of the State, and shall record the certificate with the application. There shall be no fees paid to the Secretary of State for any work done in connection with the incorporation or dissolution of the Authority.

**Section 5. Members, Officers, and Directors; Meetings of Board of Directors; Record of Proceedings; Copies of Proceedings as Evidence; Members, Officers and Directors not Personally Liable.** (a) The applicants named in the application and their respective successors in office shall constitute the members of the Authority. The Governor shall, as soon as convenient after the passage of this Act, appoint one person from each of the now existing seven Congressional Districts as members of the Authority, and at the expiration of the terms for which they are appointed or the existence of a vacancy, their successors. Each member and/or successor shall be a citizen of the State, of good reputation and at the time of their appointment two of such members shall be engaged in the business of home building, two shall be licensed real estate brokers, who are not in the business of home building, one shall be engaged in the business of lending money on the security of mortgages on residential property or the officer or employee of a Mortgage Lender, one shall be an elected commissioner of a county in the state, one shall be an elected mayor of a municipality. The members first appointed shall be appointed for terms of one, two, three, four, five, six, and seven years respectively, and the Governor in the appointment shall designate the expiration date of the term of the member. Their respective successors shall be appointed for the remainder of any unexpired term or, if appointed at the expiration of a term, for terms of seven years. Each member shall hold office for the term of his

appointment and until his successor shall have been appointed and qualified. A member, director or officer of the Authority may be impeached or removed from office in the same manner and on the same grounds as provided in Section 175 of the Constitution of Alabama and the general laws of the State relating to the impeachment and removal of public officers. At least one member shall be a member of the minority race. The Director of Finance and the Superintendent of Banks shall serve as ex officio members of the authority.

(b) The members of the Authority shall constitute all the members of the Board of Directors of the Authority, in which all powers of the Authority shall be vested, and any four members of the Board of Directors shall constitute a quorum for the transaction of a business.

(c) The Board of Directors shall elect from among its members, a Chairman, a Vice-Chairman, a Secretary, a Treasurer and such other officers as it may determine. The Board of Directors may also elect an Assistant Secretary and an Assistant Treasurer, who need not be members of the Board of Directors.

(d) Regular meetings of the Board of Directors shall be held at such time and place as shall be fixed by resolution of the Board of Directors and special meetings of the Board of Directors shall be held at the call of the Chairman or whenever three members of the Board of Directors so request. Any action taken by the Authority under the provisions of this Act may be authorized by resolution approved by at least four of the directors present at any regular or special meeting. No member, officer or director of the Authority shall receive any salary therefor, but he may be reimbursed for necessary travel and the reasonable expenses of performing the duties of office. All proceedings had and done by the Board of Directors shall be reduced to writing by the Secretary or Assistant Secretary of the Authority, shall be signed by at least three directors and shall be recorded in a substantially bound book and filed in the office of the Authority. All proceedings of the board shall be open to the public and all records of the board shall be subject to public inspection during business hours. Copies of such proceedings, when certified by the Secretary or Assistant Secretary of the Authority under the seal of the Authority, shall be received in all courts as prima facie evidence of the matters and things therein certified.

(e) No member, officer, director or employee shall be personally liable for the obligations or acts of the Authority.

(f) There shall be established a Legislative Oversight Committee to provide recommendations to the board concerning

efficient operation of the authority. The committee shall consist of seven members of the House of Representatives, one each from each congressional district appointed by the Speaker of the House and seven members of the Senate, one from each congressional district appointed by the Lieutenant Governor. The Governor, Lieutenant Governor and Speaker of the House or their designated representatives shall serve as ex officio members. The legislative members, after their initial appointments, shall be named at each organizational session and all members shall serve until their successors are properly qualified. All members of this committee shall be entitled to their actual expenses incurred in the performance of their duties as members of the committee.

**Section 6. Powers of the Authority.** The Authority shall have the following powers:

(1) To have succession by its corporate name until the principal of and interest on the Bonds shall have been fully paid and until it shall have been dissolved as provided herein;

(2) To sue and be sued and to prosecute and defend in any court having jurisdiction of the subject matter and of the parties thereto;

(3) To adopt and use a corporate seal and to alter the seal at pleasure;

(4) To establish a fiscal year;

(5) To maintain an office in the City of Montgomery;

(6) To adopt, and from time to time amend and repeal, bylaws and rules and regulations, not inconsistent with this Act, to carry into effect the powers and purposes of the Authority in the conduct of its business;

(7) To purchase Mortgage Loans from Mortgage Lenders;

(8) To contract with Mortgage Lenders for the origination of or the servicing of Mortgage Loans to be made by such Mortgage Lenders and the servicing of the Mortgages securing Mortgage Loans;

(9) To make loans to Mortgage Lenders, provided that (i) the proceeds of such loans shall be required to be used by such Mortgage Lenders for the making of Mortgage Loans, and (ii) the Mortgages in connection with the Mortgage Loans so made, together with any additional security required by the Authority, shall be mortgaged, pledged, assigned or otherwise provided as security for such loans to Mortgage Lenders;

(10) To exercise any and all rights accorded to the owner and holder of a Mortgage under and in accordance with the terms of said instruments and the applicable laws of the State with respect to the Mortgaged Property, directly or through Mortgage Lenders or others acting on behalf of the Authority or on behalf of the holders of its Bonds, including, but without limitation, the power to foreclose, to sell the equity of redemption, to purchase the equity of redemption and otherwise to sell and dispose of the Mortgaged Property, all as shall seem in the best interests of the Authority and the holders of its Bonds;

(11) To sell and issue Bonds in order to provide funds for any corporate function, use or purpose;

(12) To mortgage, pledge, assign or grant security interests in any or all of its Mortgage Loans, Mortgages and its interests created thereby in the underlying real and personal properties covered by such Mortgages as security for the payment of the principal of and interest on any Bonds issued by the Authority, or as security for any agreements made in connection therewith, whether then owned or thereafter acquired, and to pledge the revenues from which said Bonds are payable as security for the payment of the principal of and interest on said Bonds and any agreements made in connection therewith;

(13) To establish such reserves from the proceeds of any issue of Bonds or from revenues of the Authority as the Board of Directors shall determine to be necessary and desirable in connection with the payment and retirement of the Bonds of the Authority or in connection with any other purpose, power or function of the Authority;

(14) To execute and deliver, in accordance with the provisions of this section and of Section 8 hereof, mortgages and deeds of trust and trust indentures, or either;

(15) To appoint, employ, contract with, and provide for the compensation of, such employees, attorneys, fiscal advisers, and agents as the business of the Authority may require;

(16) To provide for such insurance as the Board of Directors may deem advisable, including, but without limitation, casualty insurance, mortgage payment guarantee insurance and bond insurance;

(17) To invest in Authorized Investments any funds of the Authority that the Board of Directors may determine are not presently needed for other uses, purposes or functions of the Authority;



(18) To enter into a management agreement or agreements with any person, firm or corporation for the performance by said person, firm or corporation for the Authority of any of its functions or powers upon such terms and conditions as may be mutually agreeable;

(19) To sell, exchange and convey any or all of its properties whenever its Board of Directors shall find any such action to be in furtherance of the purposes for which the Authority was organized; and

(20) To make, enter into and execute such contracts, agreements, leases and other instruments and to take such other actions as may be necessary or desirable to accomplish any purpose for which the Authority is organized or to exercise any power granted hereunder.

#### Section 8. Bonds of the Authority.

(a) General. The Authority may from time to time issue its negotiable Bonds in such principal amounts as, in the opinion of the Authority, shall be necessary to provide sufficient funds for achieving the corporate purposes thereof, the payment of interest on Bonds of the Authority, establishment of reserves to secure such Bonds and all other expenditures of the Authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(b) Sources of Payment. Bonds issued by the Authority shall be payable solely out of revenues or property of the Authority specified in the resolutions authorizing the issuance of such Bonds. To the extent permitted by any contracts with the holders of outstanding Bonds and any other contractual obligations or requirements, the Authority may pledge any or all of its revenues or mortgage or assign any or all of its assets (whether real or personal or whether tangible or intangible) to secure the payment of any of its Bonds.

Revenues and property out of which Bonds may be payable shall include, without limitation, (i) payments of principal, interest, premiums and penalties in respect to Mortgage Loans, loans to Mortgage Lenders, Mortgages and Mortgaged Property, (ii) proceeds referable to the foreclosure of Mortgages or otherwise realizing, by any and all means, upon any Mortgaged Property, (iii) payments made in redemption of the equity of such Mortgages or similar payments with respect to any redemption of Mortgaged Property, (iv) proceeds from the leasing or sale of property which was formerly Mortgaged Property and which was acquired in the

process of enforcing Mortgage Loans or loans to Mortgage Lenders, (v) proceeds from the sale of Mortgage Loans, loans to Mortgage Lenders, Mortgages and Mortgaged Property, (vi) insurance proceeds referable to Mortgage Loans, loans to Mortgage Lenders, Mortgages and Mortgaged Property, including, but without limitation, proceeds from casualty insurance and mortgage payment guarantee insurance, (vii) proceeds from bond insurance, (viii) grants or subsidies available in connection with any of the foregoing, or (ix) any of the foregoing sources of revenues as may be designated in the proceedings of the Board pursuant to which the Bonds shall be authorized to be issued.

(c) Pledge of Revenues and Other Security. The principal of and interest on any Bonds issued by the Authority may be secured by a pledge of the revenues out of which the same are payable and may be secured by a trust indenture evidencing such pledge or by a foreclosable mortgage and deed of trust conveying as security for such Bonds all or any part of the property of the Authority from which the revenues so pledged may be derived. The resolution under which the Bonds are authorized to be issued or any such trust indenture or mortgage may contain any agreements and provisions respecting the maintenance and insurance of the property covered by such trust indenture or mortgage, the use of the revenues subject to such trust indenture or mortgage, the creation and maintenance of special funds from such revenues, the rights, duties and remedies of the parties to any such instrument and the parties for the benefit of whom such instrument is made and the rights and remedies available in the event of default as the Authority shall deem advisable and which are not in conflict with the provisions of this Act.

(d) Execution. All Bonds issued by the Authority shall be signed by the Chairman or Vice Chairman of its Board of Directors and attested by its Secretary or Assistant Secretary and the seal of the Authority shall be affixed thereto, and any interest coupons applicable to the Bonds of the Authority shall be signed by the Chairman or Vice Chairman of its Board of Directors; provided, that a facsimile of the signature of either the signing or the attesting officer, but not both, may be printed or otherwise reproduced on any such Bonds in lieu of his manually signing the same, a facsimile of the seal of the Authority may be printed or otherwise reproduced on any such Bonds in lieu of being manually affixed thereto, and a facsimile of the signature of the Chairman or Vice Chairman of the Board of Directors may be printed or otherwise reproduced on any such interest coupons in lieu of his manually signing the same.

(e) General Provisions Respecting Form, Interest Rate, Maturities, Sale and Negotiability of Bonds. Any such Bonds may be executed and delivered by the Authority at any time and from time to time, shall be in such form and denomination or denominations and of such tenor and maturity or maturities, shall contain such provisions not inconsistent with the provisions of this Act, and shall bear such rate or rates of interest, payable at such place or places either within or without the State, and evidenced in such manner, as may be provided by resolution of the Board of Directors. Bonds of the Authority may be sold at public sale, including without limitations the rejection of all bids, at such price or prices and at such times as determined by the Board of Directors to be advantageous. In addition, if bids are rejected or upon a finding by the Director of Finance of the State that a public sale of the Authority's bonds is under the circumstances either impractical or undesirable, bonds may be sold at private sale in such manner and at such price or prices and at such time or times as may be determined by the Board of Directors to be most advantageous.

The Authority may pay all expenses, premiums and commissions in connection with any financing done by it. All Bonds of the Authority (including refunding Bonds), except Bonds registered as to principal or as to both principal and interest, and any interest coupons applicable thereto issued by the Authority shall be construed to be negotiable instruments although payable solely from a specified source.

(f) No State Debt or Obligation. All obligations created and all Bonds issued by the Authority shall be solely and exclusively an obligation of the Authority and shall not create an obligation or debt of the State.

**Section 9. Proceeds from the Sale of Bonds.** All moneys derived from the sale of any Bonds issued by the Authority shall be used solely for the purpose or purposes for which the same are authorized, including costs and expenses of issue. Such costs and expenses may include but shall not be limited to (1) the fiscal, legal and other expenses incurred in connection with the issuance of the Bonds, and (2) except in the case of refunding Bonds, interest to accrue on such Bonds for a period ending not later than two (2) years from their date.

Bonds shall be issued in series, each of which shall be separately designated in the proceedings authorizing their issuance. The Board of Directors in the proceedings authorizing a series of Bonds (other than refunding Bonds) shall specify the purposes for which the proceeds of such series shall be used. The

proceeds of a series of Bonds shall be used either for making, directly or indirectly, Single Family Mortgage Loans or for making, directly or indirectly, Multi-Family Mortgage Loans, and the proceeds of a single series of Bonds shall not be used for both Single Family Mortgage Loans and Multi-Family Mortgage Loans. Separate series of Bonds may be issued at the same time. No series of Bonds the proceeds of which are to be used for Multi-Family Mortgage Loans shall be actually issued prior to January 1, 1981, although the Authority may enter into agreements or commitments with regard to the issuance of such Bonds prior to January 1, 1981.

In the proceedings authorizing any Bonds (other than refunding Bonds) the proceeds of which are to be applied, directly or indirectly, to the making of Single Family Mortgage Loans, the Board of Directors shall specify the portion of the proceeds thereof which the Board of Directors has determined are to be used for the purpose of providing funds with respect to the making, directly or indirectly, such Mortgage Loans, and of such portion shall allocate (i) a minimum of 70% of such proceeds to the making of Mortgage Loans with respect to new and previously unoccupied Eligible Housing Units, and (ii) not exceeding 30% of such proceeds to the making of Mortgage Loans for existing Eligible Housing Units and for the purchase of existing Mortgage Loans with respect to Eligible Housing Units; provided, that if the Authority determines, after sixty days from the date of issuance of any series of Bonds issued for the purpose of financing Single Family Mortgage Loans, that the proceeds of such series have not been expended or committed to be expended for Mortgage Loans with respect to new and previously unoccupied Eligible Housing Units, then such proceeds may be used to finance any Single Family Mortgage Loans.

**Section 10. Refunding Bonds.** Any Bonds issued by the Authority may from time to time be refunded by the issuance, by sale or exchange, of refunding Bonds payable from the same or different sources for the purpose of paying all or any part of the principal of the Bonds to be refunded, any redemption premium required to be paid as a condition to the redemption prior to maturity of any such Bonds that are to be so redeemed in connection with such refunding, any accrued and unpaid interest on the Bonds to be refunded, any interest to accrue on each Bond to be refunded to the date on which it is to be paid, whether at maturity or by redemption prior to maturity, and the expenses incurred in connection with the refunding; provided, that unless duly called for redemption pursuant to provisions contained therein, the holders of any such Bonds then outstanding and proposed to be refunded shall

not be compelled without their consent to surrender their outstanding Bonds for such refunding. Any refunding Bonds may be sold by the Authority at public or private sale at such price or prices as may be determined by its Board of Directors to be most advantageous, or may be exchanged for the Bonds to be refunded. Any such refunding Bonds may be executed and delivered by the Authority at any time and from time to time, shall be in such form and denomination or denominations and of such tenor and maturity or maturities, shall contain such provisions not inconsistent with the provisions of this Act, and shall bear such rate or rates of interest, payable at such place or places, either within or without the State, and evidenced in such manner, as may be provided by resolution of the Board of Directors.

Any refunding Bonds issued by the Authority shall be issued and may be secured in accordance with the provisions of Section 8 of this Act.

**Section 11. Limitation on Issuance of Bonds.** Notwithstanding any other provision of this Act to the contrary, the Authority shall not issue any bonds, other than refunding Bonds, subsequent to March 31, 1982, except as authorized by Act of the Legislature regularly enacted into law.

**Section 12. Bonds of Authority Eligible for Investment.** The State Treasurer may invest any idle or surplus moneys of the State in Bonds of the Authority. The governing body of any county or municipality is authorized in its discretion to invest any idle or surplus money held in its treasury in Bonds of the Authority. Such Bonds shall be legal investments for executors, administrators, trustees and other fiduciaries, unless otherwise directed by the court having jurisdiction of the fiduciary relation or by the document that is the source of the fiduciary's authority, and for savings banks and insurance companies organized under the laws of the State.

**Section 13. Applicability of Certain Provisions of Alabama Uniform Commercial Code.** The provisions of Code of Alabama 1975, §7-9-104(1), to the contrary notwithstanding, the provisions of Article 9 of the Alabama Uniform Commercial Code (Code of Alabama 1975, §7-9-101, et seq.) shall apply with full force and effect to any security interest (whether denominated a pledge, assignment or otherwise) in any tangible or intangible personal property of the Authority created or made in connection with any issue of Bonds of the Authority.

**Section 14. Exemption from Taxation.** The property and income of the Authority, all Bonds issued by the Authority, the interest payable on and the income derived from such Bonds, conveyances by or to the Authority, and leases, mortgages and deeds of trust or trust indentures by or to the Authority shall be exempt from all taxation in the State. The Authority shall be exempt from all taxes levied by any county, municipality or other political subdivision of the State, including, but without limitation, license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which the Authority may engage. Nothing in this section shall be construed to exempt any private person, firm or corporation from payment of any ad valorem, mortgage or deed taxes or recording fees notwithstanding the fact that the Authority shall have acquired an interest in the property or instrument subject to such taxes or fees.

**Section 15. Liability of State.** The State shall not in any event be liable for the payment of the principal of or interest on any Bonds of the Authority or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Authority, and none of the Bonds of the Authority or any of its agreements or obligations shall be construed to constitute an indebtedness of the State within the meaning of any constitutional or statutory provision whatsoever.

**Section 16. Exemption from Usury and Interest Laws.** All securities issued by the Authority shall be exempt from the laws of the State governing usury or prescribing or limiting interest rates, including, but without limitation, the provisions of Chapter 8 of Title 8 of Code of Alabama 1975.

**Section 17. Freedom of Authority from State Supervision and Control.** This Act is intended to aid the State through the furtherance of the purposes of the Act by providing an appropriate and independent instrumentality of the State with full and adequate powers to fulfill its functions. Except as expressly provided in this Act, no proceeding, notice or approval shall be required for the incorporation of the Authority, the purchase of any Mortgage Loans or the making of any loan to a Mortgage Lender, the acquisition of any Mortgage, the acquisition of or any dealing with respect to any Mortgaged Property, the issuance of any Bonds, the execution of any mortgage and deed of trust or trust indenture, or the exercise of any other of its powers by the Authority.

**Section 18. Earnings of the Authority.** The Authority shall be a nonprofit corporation and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event its Board of

Directors shall determine that sufficient provision has been made for the full payment of the expenses, Bonds and other obligations of the Authority, then any net earnings of the Authority thereafter accruing shall be paid to the State.

**Section 19.** Dissolution of the Authority and Vesting Title to Property in the State. At any time when an Authority has no Bonds or other obligations outstanding, its Board of Directors may by the unanimous vote of all directors present adopt a resolution declaring that the Authority shall be dissolved. Upon filing for record of a certified copy of the said resolution in the office of the Secretary of State, the Authority shall thereupon stand dissolved and in the event it shall own any property at the time of its dissolution, the title of all its properties shall thereupon pass to the State.

**Section 20.** The Authority shall utilize all administrative services which may be provided by the Department of Finance.

**Section 21.** Conflict of Interest. The entire board of directors, the officers and employees of the authority are hereby subject to the Alabama Ethics Law and to the rules and regulations and promulgations by the Alabama Ethics Commission.

**Section 22.** This Act shall not be used to assist any present owner for re-financing purposes.

**Section 23.** Liberal Construction. This Act being remedial in nature, the provisions of this Act shall be liberally construed to effect its purpose.

**Section 24.** Severability. In the event any section, sentence, clause or portion of this Act should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses or portions of this Act, which shall continue effective.

**Section 25.** Effective Date of Act. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 9:45 A.M.

## Kirkland and Figures

## AN ACT

To authorize and make provision for the incorporation of the Alabama Agricultural Development Authority; to provide for the directors of the Authority and their compensation; to provide for the powers, authorities and duties of the Authority and its board of directors; to establish a Legislative Oversight Committee and to provide for the appointment of its members and the payment of their expenses; to authorize the Authority to make loans to others for the purpose of acquiring, by purchase, construction or otherwise, land, any building or other improvement thereon or thereto, and any personal properties necessary or suitable for use in farming, ranching, the production of agricultural commodities (including the products of aquaculture and silvaculture) or the treating, processing or storing of such agricultural commodities when such activities are customarily engaged in by farmers as a part of farming, such loans to be secured or evidenced by such mortgages, deeds of trust, notes, debentures, bonds or other secured or unsecured evidences of indebtedness as the board of directors of the Authority may determine; to purchase or to make commitments to purchase mortgages, deeds of trust, notes, bonds or other secured or unsecured debt obligations or portions thereof or participations therein, executed by the obligors thereon to obtain funds with which to acquire, by purchase, construction or otherwise, reconstruct or improve such facilities; to authorize the Authority to contract with others to originate or service any loans made by it or mortgages or other instruments purchased by it; to authorize the Authority to foreclose such mortgages or other instruments, sell the equity of redemption in such security interests and purchase the equity of redemption of the grantor of the said security interests; to authorize the Authority to receive and accept aid or contributions for furtherance of any of its purposes; to authorize the Authority to collect fees and charges in connection with its activities; to authorize the Authority to sell at public or private sale, with or without public bidding, any mortgage or other instrument held by it; to authorize the Authority to procure various types of insurance and guarantees; to authorize the Authority to borrow money for any of its corporate purposes; to provide for the issuance by the Authority for any of its corporate purposes of interest-bearing revenue bonds and other interest-bearing securities, payable solely out of the revenues and receipts derived from or referable to loans made by the Authority, any mortgages or other instruments purchased by the Authority, and from any of its other property; to provide that such securities shall, under certain circumstances, constitute negotiable instruments; to provide that such securities may be secured by a pledge of the revenues and receipts from which they are payable, by contracts binding the Authority for the proper application of its revenues and of the proceeds of such securities, and by mortgages and deeds of trust and trust indentures on the property out of the revenues from which such securities are payable; to provide for the use of the proceeds of any securities issued by the Authority; to provide for the refunding, by the issuance of such securities of the Authority, of securities theretofore issued or obligations theretofore assumed by it; to provide that such securities issued and contracts entered into by the Authority pursuant to this Act shall not constitute or create a debt of the State; to make the securities issued by the Authority eligible investments for fiduciaries; to make the securities issued by the Authority eligible securities which may be given as security for the deposit of State funds; to provide for the employment by the Authority of such officers, employees and agents as its business may require; to provide for the investment of funds of the Authority; to authorize the Authority to enter into contracts for the management of any of its properties; to authorize the sale or conveyance, with or without consideration, by the Authority of any of its properties; to exempt the property and income of the Authority and all securities issued by the Authority and the income from such



securities, and conveyances, leases, mortgages and deeds of trust to which any such Authority is a party, from all taxation in the State; to exempt the Authority from all taxes, including license and excise taxes, levied by any county, municipality, or other political subdivision of the State, and to exempt the Authority from payment of certain charges to Judges of Probate; to exempt the Authority from all laws of the State governing usury or prescribing or limiting interest rates; to exempt the Authority from the supervision and control of State agencies, in particular the State Department of Finance; to provide that the directors, officers and employees of the Authority shall be subject to the Alabama Ethics Law and to the rules and promulgations by the Alabama Ethics Commission; and to provide for the dissolution of the Authority and the disposition of its property.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Declaration of Purpose and Legislative Findings. The Legislature has found and determined and does hereby declare that in this State the following conditions exist: (a) that there exists in this State an inadequate supply of funds at interest rates sufficiently low to enable persons engaged in agriculture in this State to continue their operations at present levels; (b) that such inability to continue agricultural operations lessens the supply of agricultural commodities available to fulfill the needs of the citizens of this State; (c) that such inability to continue operations decreases available employment in the agricultural sector of the State and results in unemployment and its attendant problems; and (d) that it is necessary, desirable and in the best interest of the citizens of this State that provision be made for the establishment of a public corporation to promote the development of agriculture in this State by making available to persons engaged in agriculture in this State, at interest rates lower than would be otherwise obtainable, funds for use in agricultural operations and to vest such corporation with all powers that may be necessary to enable it to accomplish such purpose.

**Section 2.** Definitions. The following words and phrases used in this Act, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

“Affiliate” means, with respect to any Lender, any person, firm or corporation controlled by, or under common control with, such Lender, and any person, firm or corporation controlling such Lender.

“Agricultural Facility” means land, any building or other improvement thereon or thereto, and any personal properties deemed necessary or suitable for use, whether or not now in existence, in farming, ranching, the production of agricultural commodities (including, without limitation, the products of

aquaculture and silvaculture) or the treating, processing or storing of such agricultural commodities when such activities are customarily engaged in by farmers as a part of farming.

“Authority” means the public corporation organized pursuant to the provisions of this Act.

“Board” means the board of directors of the Authority.

“Bonds” means and shall include bonds, notes, certificates, bond, grant or revenue anticipation notes or any other evidence of indebtedness representing an obligation to pay money.

“Director” means a member of the Board of the Authority.

“Lender” means any federal or state chartered bank, Federal Land Bank, Production Credit Association, Bank for Cooperatives, federal or state chartered savings and loan association or building and loan association, Small Business Investment Company or any other institution qualified within this State to originate and service loans, including, but without limitation to, insurance companies, credit unions and mortgage loan companies.

“Person” means, unless limited to a natural person by the context in which it is used, a person, corporation, association, partnership or cooperative.

“State” means the State of Alabama.

**Section 3. Incorporation Authorized; Procedure.** (a) The Governor, the Commissioner of Agriculture and Industries and the Director of Finance may incorporate and organize a public corporation, with the power and authority hereinafter provided, by proceeding according to the provisions of this Act. To organize such a corporation, the Governor, the Commissioner of Agriculture and Industries and the Director of Finance shall present to the Secretary of State of Alabama an application signed by them which shall set forth:

(1) The name and official designation of each of the applicants, together with a certified copy of the commission evidencing each applicant’s right to office;

(2) The date on which each applicant was inducted into office and the term of office of each of the applicants;

(3) The name of the proposed corporation, which shall be Alabama Agricultural Development Authority;

(4) The location of the principal office of the proposed corporation, which shall be in the State;

(5) The period of duration of the proposed corporation (if the duration is to be perpetual, subject to the provisions of Section 14 hereof, that fact shall be stated); and

(6) Any other matter relating to the incorporation of the proposed corporation that the applicants may choose to insert and that is not inconsistent with this Act or the laws of the State.

(b) The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of the State to take acknowledgements to deeds.

(c) The Secretary of State shall examine the application; and, if he finds that it substantially complies with the requirements of this section, he shall receive and file it and record it in an appropriate book of records in his office.

(d) When an application has been made, filed and recorded as herein provided, the Secretary of State shall make and issue to the applicants a certificate of incorporation pursuant to this Act under the great seal of the State, and shall record the certificate with the application. There shall be no fees paid to the Secretary of State for any work done in connection with the incorporation or dissolution of the Authority.

**Section 4. Board of Directors.** (a) The Authority shall be governed by a board of directors, and all powers of the Authority shall be exercised by the Board or pursuant to its authorization. The Board shall consist of seven Directors. The Commissioner of Agriculture and Industries, the Director of Finance and the Superintendent of Banking shall be ex officio members of the Board of Directors.

The remaining four Directors shall be appointed, by the persons and in the manner hereinafter prescribed, as soon as may be practicable after the incorporation of the Authority, for staggered terms as follows: The Speaker of the House of Representatives shall appoint one Director and the President Pro Tempore of the Senate shall appoint one Director each of whose initial term shall begin immediately upon his respective appointment and shall end on September 30 in the fourth calendar year next following the calendar year in which the certificate of incorporation was issued; and the Governor shall appoint each of the two remaining Directors whose initial terms shall begin immediately upon their respective appointments and shall end on September 30 in the second calendar year next following the calendar year in which the certificate of incorporation of the Authority was issued. Thereafter, the term of office of each

appointed Director shall be four years, commencing on the October 1 next following the September 30 on which the term of the immediate predecessor Director ended. If at any time there should be a vacancy on the Board not heretofore provided for, a successor Director shall be appointed to serve for the unexpired term applicable to such vacancy. The appointment of each appointed Director (other than those initially appointed), whether for a full four-year term or to complete an unexpired term, shall be made by the same State officer who appointed the Director whose term has expired or is to expire or in whose office a vacancy otherwise exists and shall be made not earlier than thirty days prior to the date on which such Director is to take office as such. If the term of office of any appointed Director shall expire prior to the re-appointment of such Director or prior to the appointment of his successor, such Director shall continue to serve until his successor is appointed and qualified, and if such Director is re-appointed for a new term after the expiration of the immediately preceding term which he has been serving, his new term of office shall be deemed to have commenced on the October 1 next following the expiration of such immediately preceding term. Directors shall be eligible for re-appointment.

(b) Each appointed Director shall, at the time of his appointment and at all times during his term of office, be a qualified elector of the State; and a failure by any appointed Director to remain so qualified during such term shall cause a vacancy of the office of such Director. No officer or employee of the State or of any county, city or town therein, and no officer, employee, director or trustee of any Lender or any Affiliate thereof, shall be eligible for appointment as a Director. The acceptance by an appointed Director of any office or employment which, had such Director held such office or been so employed at the time of his appointment as a Director, would have rendered him ineligible for appointment as a Director, shall cause a vacancy of the office of such Director. Each Director shall serve without compensation, except that he may be reimbursed for expenses actually incurred by him in and about the performance of his duties.

(c) A majority of the Directors shall constitute a quorum for the transaction of business. No vacancy in the membership of the Board or the voluntary disqualification or abstention of any member thereof shall impair the right of a quorum of the Board to exercise all the powers and duties of the Authority. Any appointed Director may be impeached and removed from office in the same manner and on the same grounds provided by Section 175 of the

Constitution of Alabama, or successor provision thereof, and the general laws of the State for impeachment and removal of the officers mentioned in said Section 175, or successor provisions thereof. All proceedings of the Board shall be reduced to writing by the secretary of the Authority and maintained in the permanent records of the Authority. Copies of such proceedings, when certified by the secretary of the Authority under the seal of the Authority, shall be received in all courts as evidence of the matters therein certified.

**Section 5. Officers of the Authority.** The officers of the Authority shall consist of a chairman, vice chairman, secretary, treasurer and such other officers as the Board shall deem necessary or appropriate. The offices of secretary and treasurer may, but need not, be held by the same person. The Commissioner of Agriculture and Industries shall be the chairman of the Authority; the vice chairman of the Authority shall be elected by the Board from the membership thereof; the secretary, the treasurer and any other officers of the Authority may, but need not, be members of the Board and shall also be elected by the Board.

**Section 6.** There shall be established a Legislative Oversight Committee to provide recommendations to the Board concerning efficient operation of the Authority. The committee shall consist of seven members of the House of Representatives, one from each congressional district appointed by the Speaker of the House and seven members of the Senate, one from each congressional district appointed by the Lieutenant Governor. The Governor, Lieutenant Governor and Speaker of the House or their designated representatives shall serve as ex officio members. The legislative members shall be named at each organizational session and all members shall serve until their successors are properly qualified. All members of this committee shall be entitled to their actual expenses incurred in the performance of their duties as members of the committee.

**Section 7. Powers of Authority.** The Authority shall have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form:

- (1) To have succession by its corporate name for the duration of time (which may be perpetuity, subject to the provisions of Section 14 hereof) specified in its certificate of incorporation;
- (2) To sue and be sued in its own name in civil suits and actions, and to defend suits against it;
- (3) To adopt and make use of a corporate seal and to alter the

same at pleasure;

(4) To adopt, alter and repeal by-laws, not inconsistent with the provisions of this Act, for the regulation and conduct of its affairs and business;

(5) To loan its funds to one or more Persons to be used by such Persons to pay the costs of acquiring, whether by purchase, construction or otherwise, reconstructing or improving Agricultural Facilities, such loans to be on such terms and conditions, and for such period of time, and secured or evidenced by such mortgages, deeds of trust, notes, debentures, bonds or other secured or unsecured evidences of indebtedness of such Persons as the Board may determine;

(6) To purchase, or to make commitments to purchase, from Lenders mortgages, deeds of trust, notes, debentures, bonds or other secured or unsecured debt obligations or portions thereof or participations therein, which mortgages and other instruments were executed by the obligors thereon to obtain funds with which to acquire, by purchase, construction, or otherwise, reconstruct or improve Agricultural Facilities; provided that nothing contained herein shall empower the Authority to purchase from Lenders such mortgages or other instruments or participations therein which represent obligations incurred by the obligor more than six months prior to the date of such purchase by the Authority;

(7) To contract with Lenders or others for the origination of or the servicing of the loans made by the Authority pursuant to paragraph (5) of this section or represented by the mortgages or other instruments which it has purchased pursuant to paragraph (6) of this section; provided that such servicing fee shall not exceed one per cent per annum of the principal amount outstanding owed to the Authority;

(8) To foreclose any mortgages, deeds of trust, notes, debentures, bonds and other security interests held by it, either by action or by exercise of a power of sale, and to sell the equity of redemption in said security interests in accordance with the terms of said instruments and applicable state law, and to take all such other actions as may be necessary to enforce any obligation held by it;

(9) To purchase the equity of redemption in any such mortgage, deed of trust, note, debenture, bond or other security interest;

(10) To receive and accept, from any source, aid or contributions of money, property, labor or other items of value for

furtherance of any of its purposes, subject to any conditions not inconsistent herewith or with the laws of this State pertaining to such contributions, including, but without limitation to, gifts or grants from any department, agency or instrumentality of the United States of America.

(11) To collect such fees and charges in connection with its loans, advances, insurance, commitments, servicing and other activities as it may determine;

(12) To sell at either public or private sale, with or without public bidding, any mortgage, deed of trust, note, debenture or other obligation held by the Authority;

(13) To procure such insurance and guarantees as the Board may deem advisable, including, but without limitation to, insurance or guarantees against any loss in connection with any notes or obligations held by it, and any of its property or assets, and for payment of any Bonds or other obligations issued by the Authority, in such amounts and from such public or private entities, as it may deem advisable, and to pay premiums or other charges for any such insurance or guarantees;

(14) To borrow money and to sell and issue its Bonds for any corporate function, use or purpose authorized herein;

(15) To mortgage, pledge, assign or grant security interests in any or all of its notes or other instruments, contract rights or other property, including, but without limitation to, any receipts from insurance on or guarantees of any of its notes or other instruments, as security for the payment of the principal of and interest on any Bonds issued by the Authority, or as security for any agreements made in connection therewith, whether then owned or thereafter acquired, and to pledge the revenues from which said Bonds are payable as security for the payment of the principal of and interest on said Bonds and any agreements made in connection therewith;

(16) To execute and deliver, in accordance with the provisions of this section and of Section 8 hereof, mortgages and deeds of trust and trust indentures, or either;

(17) To appoint, employ, contract with, and provide for the compensation of, such officers, employees and agent, including, but without limitation to, engineers, attorneys, management consultants, fiscal advisers, and agricultural, silvacultural and aquacultural experts, as the business of the Authority may require; provided, however, that no Director or member of his or her firm, business, partnership or corporation shall be employed or compensated by the Authority;

(18) To invest any funds of the Authority that the Board may determine are not presently needed for any of its corporate purposes in obligations of the United States of America, and interest bearing bank and savings and loan association deposits, or any thereof;

(19) To enter into a management agreement or agreements with any Person for the management by said Person for the Authority of any of its properties upon such terms and conditions as may be mutually agreeable;

(20) To sell, exchange, donate and convey any or all of its properties whenever its Board shall find any such action to be in furtherance of the purposes for which the Authority was organized; and

(21) To make, enter into, and execute such contracts, agreements, leases and other instruments and to take such other actions as may be necessary or convenient to accomplish any purpose for which the Authority was organized or to exercise any power expressly granted hereunder.

All meetings of the Board of the Authority for any purpose shall be open to the public.

**Section 8. Bonds of the Authority. (a) Source of Payment.** All Bonds issued by the Authority shall be payable solely out of the revenues and other receipts of the Authority as may be designated in the proceedings of the Board under which the Bonds shall be authorized to be issued.

(b) **Pledge of Revenues and Other Security.** The principal of and interest on any Bonds issued by the Authority shall be secured by a pledge of the revenues and other receipts out of which the same may be payable and may be secured by a trust indenture evidencing such pledge or by a foreclosable mortgage and deed of trust conveying as security for such Bonds all or any part of the property of the Authority from which the revenues so pledged may be derived. The resolution under which the Bonds are authorized to be issued or any such trust indenture or mortgage may contain any agreements and provisions respecting the maintenance and insurance of the property covered by such trust indenture or mortgage, the use of the revenues subject to such trust indenture or mortgage, the creation and maintenance of special funds from such revenues, the rights, duties and remedies of the parties to any such instrument and the parties for the benefit of whom such instrument is made and the rights and remedies available in the event of default as the Board shall deem advisable and which are not in



conflict with the provisions of this Act.

(c) Execution. All Bonds issued by the Authority shall be signed by its chairman or vice chairman and attested by its secretary, and the seal of the Authority shall be affixed thereto, and any interest coupons applicable to the Bonds of the Authority shall be signed by its chairman or vice chairman; provided, that a facsimile of the signature of one, but not both, of said officers may be printed or otherwise reproduced on any such Bonds in lieu of his manually signing the same, a facsimile of the seal of the Authority may be printed or otherwise reproduced on any such Bonds in lieu of being manually affixed thereto, and a facsimile of the signature of its chairman or vice chairman may be printed or otherwise reproduced on any such interest coupons in lieu of his manually signing the same.

(d) General Provisions Respecting Form, Interest Rate, Maturities, Sale and Negotiability of Bonds. Any such Bonds may be executed and delivered by the Authority at any time and from time to time, shall be in such form and denominations and of such tenor and maturities, shall contain such provisions permitting or restricting redemption of such Bonds prior to their maturities, shall contain such provisions not inconsistent with the provisions of this Act, and shall bear such rate or rates of interest, payable and evidenced in such manner, as may be provided by resolution of its Board. Bonds of the Authority may be sold at public sale, including without limitations the rejection of all bids, at such price or prices and at such times as determined by the Board of Directors to be advantageous. In addition, if bids are rejected or upon a finding by the Director of Finance of the State that a public sale of the Authority's bonds is under the circumstances either impractical or undesirable bonds may be sold at private sale in such manner and at such price or prices and at such time or times as may be determined by the Board of Directors to be most advantageous.

The Authority may pay all expenses, premiums and commissions in connection with any financing done by it. Whether or not any Bonds of the Authority, and any interest coupons appertaining thereto, are of such form and character as to be negotiable instruments under the terms of the Alabama Uniform Commercial Code, all Bonds, except Bonds registered as to principal or as to both principal and interest, and any interest coupons applicable thereto issued by the Authority shall be construed to be negotiable instruments although payable solely from a specified source.

(e) Nature of Obligation and Source of Payment. All obligations created and all Bonds issued by the Authority shall be

solely and exclusively an obligation of the Authority and shall not create an obligation or debt of the State or a charge on its credit or taxing powers. Any Bonds issued by the Authority shall be limited or special obligations of the Authority payable solely out of the revenues and other receipts of the Authority specified in the proceedings authorizing those Bonds.

(f) **Eligibility for Investment.** Any Bonds of the Authority are hereby made legal investments for executors, administrators, trustees and other fiduciaries, unless otherwise directed by the court having jurisdiction of the fiduciary relation or by the document that is the source of the fiduciary's authority, and for savings banks and insurance companies organized under the laws of the State.

(g) **Eligibility as Security for State Deposits.** Any Bonds of the Authority shall be, in addition to the bonds and other securities enumerated in Section 41-14-2 of the Code of Alabama of 1975, and hereby are made securities which may be accepted as security for which receipts can be accepted as security for the deposit of state funds, such Bonds to be accepted at face or par value.

**Section 9. Proceeds from the Sale of Bonds.** All moneys derived from the sale of any Bonds issued by the Authority shall be used solely for the purpose or purposes for which the same are authorized, including, but without limitation to, the establishment of reserve funds as security for the payment of the principal of (and premium, if any) and interest on the Bonds, and any costs and expenses incidental thereto. Such costs and expenses may include but shall not be limited to (i) the fiscal, consulting, legal or other expenses incurred in connection with the issuance of the Bonds, and (ii) except in the case of refunding Bonds, interest to accrue on such Bonds for a period ending not later than two (2) years from their date.

**Section 10. Refunding Bonds.** Any Bonds issued by the Authority may from time to time be refunded by the issuance, by sale or exchange, of refunding Bonds payable from the same or different sources for the purpose of paying all or any part of the principal of the Bonds to be refunded, any redemption premium required to be paid as a condition to the redemption prior to maturity of any such Bonds that are to be so redeemed in connection with such refunding, any accrued and unpaid interest on the Bonds to be refunded, any interest to accrue on each Bond to be refunded to the date on which it is to be paid, whether at maturity or by redemption prior to maturity, and the expenses incurred in connection with such refunding; provided, that unless duly called for redemption pursuant to provisions contained therein, the

holders of any such Bonds then outstanding and proposed to be refunded shall not be compelled without their consent to surrender their outstanding Bonds for such refunding. Any refunding Bonds may be sold by the Authority at public or private sale at such price or prices as may be determined by its Board to be most advantageous, or may be exchanged for the Bonds or other obligations to be refunded. Any refunding Bonds issued by an Authority shall be issued and may be secured in accordance with the provisions of Section 8 of this Act.

**Section 11. Exemption from Taxation.** The property and income of the Authority, all Bonds issued by the Authority, the income from such Bonds, conveyances by or to the Authority, and leases, mortgages and deeds of trust or trust indentures by or to the Authority shall be exempt from all taxation in the State of Alabama. The Authority shall be exempt from all taxes levied by any county, incorporated city or town, or other political subdivision of the State, including, but without limitation to, license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which the Authority may engage. The Authority shall not be obligated to pay or allow any fees, taxes or costs to the Judge of Probate of any county of this State in respect of its incorporation or the recording of any document. Nothing in this section shall be construed to exempt any private person, firm or corporation from payment of any ad valorem, mortgage or deed taxes or recording fees notwithstanding the fact that an Authority has acquired an interest in the property or instrument subject to such taxes and fees.

**Section 12. Exemption from Usury and Interest Laws.** The Authority shall be exempt from the laws of the State of Alabama governing usury or prescribing or limiting interest rates, including, but without limitation to, the provisions of Chapter 8 of Title 8 of the Code of Alabama of 1975, as it may at any time be amended.

**Section 13. Freedom of Authority from State Supervision and Control.** This Act is intended to aid the State through the furtherance of the purposes of the Act by providing an appropriate and independent instrumentality of the State with full and adequate powers to fulfill its functions. Except as expressly provided in this Act, no proceeding, notice or approval shall be required for the incorporation of the Authority, the purchase of any note or other instrument secured by a mortgage, deed of trust, note or other security interest, the issuance of any Bonds, the execution of any mortgage and deed of trust or trust indenture, or the exercise of any other of its powers by the Authority. Neither a public hearing

nor the consent of the State Department of Finance shall be prerequisite to the issuance of Bonds by the Authority. The Directors, the officers and employees of the Authority shall be subject to the Alabama Ethics Law and to the rules and promulgations by the Alabama Ethics Commission.

**Section 14.** Dissolution of the Authority and Vesting of Title to its Property. At any time when the Authority has no bonds or other obligations outstanding, its Board may adopt a resolution, which shall be duly entered upon its minutes, declaring that the Authority shall be dissolved. Upon filing for record of a certified copy of the said resolution in the office of the Secretary of State, the Authority shall thereupon stand dissolved and in the event it owned any property at the time of its dissolution, the title to all its properties shall thereupon pass to the State.

**Section 15.** Provisions are Cumulative. The provisions of this Act are cumulative and shall not be deemed to repeal existing laws, except to the extent such laws are clearly inconsistent with provisions of this Act.

**Section 16.** Liberal Construction. This Act being remedial in nature, the provisions of this Act shall be liberally construed to effect its purpose.

**Section 17.** Severability. In the event any section, sentence, clause or portion of this Act should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses or portions of this Act, which shall continue effective.

**Section 18.** Effective Date of Act. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 9:45 A.M.

---

Act No. 80-587

S. 15—Proctor

### AN ACT

Relating to controlled substances; making it unlawful to knowingly sell, manufacture, deliver, bring into the state, or knowingly be in actual or constructive possession of specified amounts of certain controlled substances or mixtures containing certain controlled substances; prescribing mandatory fines and mandatory minimum terms of imprisonment; and providing for reduction or suspension of sentences under certain circumstances.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) Except as authorized in this chapter:

(1) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of one kilo or 2.2 pounds of cannabis is guilty of a felony, which felony shall be known as "Trafficking in Cannabis." If the quantity of cannabis involved:

a. Is in excess of one kilo or 2.2 pounds, but less than 2,000 pounds, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$25,000.

b. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 calendar years and to pay a fine of \$50,000.

c. Is 10,000 pounds or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$200,000.

(2) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine or of any mixture containing cocaine, described in section 20-2-25(1), Code of Alabama 1975, is guilty of a felony, which felony shall be known as "Trafficking in Cocaine." If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 calendar years and to pay a fine of \$100,000.

c. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.

(3) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, as described in section 20-2-23(2) or section 20-2-25(1)a, Code of Alabama 1975, or 4 grams or more of any mixture containing any such substance, is guilty of a felony, which felony shall be known as "Trafficking in Illegal Drugs." If the quantity

involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a fine of \$100,000.

c. Is 28 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a fine of \$500,000.

(b) Notwithstanding the provisions of chapter 22, title 15, Code of Alabama 1975, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section.

(c) The prosecuting attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, coconspirators, or principals. The arresting agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if he finds that the defendant rendered such substantial assistance.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 9:45 A.M.

## AN ACT

To provide for restitution to victims of crimes by offenders; imposes penalties for default on payment by offenders; and provides for local restitution centers to be under the supervision of the State Board of Pardons and Paroles.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The legislature hereby finds, declares and determines that it is essential to be fair and impartial in the administration of justice that all perpetrators of criminal activity or conduct be required to fully compensate all victims of such conduct or activity for any pecuniary loss, damage or injury as a direct or indirect result thereof. The provisions of this act shall be construed so as to accomplish this purpose and to promote the same which shall be the public policy of this state.

**Section 2.** As used in this act, the following words and terms shall have the meanings respectively ascribed by this section;

(a) "Criminal activities" shall mean any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant.

(b) "Pecuniary damages" shall mean all special damages which a person shall recover against the defendant in a civil action arising out of the facts or events constituting the defendant's criminal activities and shall include, but not be limited to the money or other equivalent of property taken, broken, destroyed, or otherwise used or harmed and losses such as travel, medical, dental or burial expense and wages including but not limited to wages lost as a result of court appearances.

(c) "Restitution" shall mean full, partial or nominal payment of pecuniary damages to the victim or to its equivalent in services performed or work or labor done for the benefit of the victim as determined by the court of record.

(d) "Victim" shall mean any person whom the court determines has suffered a direct or indirect pecuniary damage as a result of the defendant's criminal activities. "Victim" shall not include any participant in the defendant's criminal activities.

**Section 3.** When a defendant is convicted of a criminal activity or conduct which have resulted in pecuniary damages or loss to a victim, the court shall hold a hearing to determine the amount or type of restitution due the victim or victims of such defendant's criminal acts. Such restitution hearings shall be held as a matter of course and in addition to any other sentence which it may impose, the court shall order that the defendant make

restitution or otherwise compensate such victim for any pecuniary damages. The defendant, the victim or victims, or their representatives or the administrator of any victims' estate as well as the District Attorney shall have the right to present and be heard upon the issue of restitution at any such hearings.

**Section 4.** In determining the manner, method or amount of restitution to be ordered the court may take into consideration the following:

(a) the financial resources of the defendant and the victim and the burden that the manner or method of restitution will impose upon the victim or the defendant.

(b) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;

(c) the anticipated rehabilitative effect on the defendant regarding the manner of restitution or the method of payment.

(d) any burden or hardship upon the victim as a direct or indirect result of the defendant's criminal acts.

(e) the mental, physical and financial well being of the victim.

**Section 5.** At such restitution hearings, the defendant, the victim, the District Attorney, or other interested party may object to the imposition, amount or distribution of restitution or the manner or method thereof and the court shall allow all such objections to be heard and preserved as a matter of record. The court shall thereafter enter its order upon the record stating its findings and the underlying facts and circumstances thereof.

**Section 6.** When a defendant is sentenced or ordered to make restitution, the court may order payment to be made forthwith to be paid to the circuit clerk as other fines and costs are made. The court may also order restitution to be made within a specified period of time or in specified installments to the circuit clerk as a condition of suspension of execution of sentence or as a condition of probation.

**Section 7.** When a defendant is sentenced to a term of imprisonment, the order of restitution shall be enforceable during the period of imprisonment when the defendant has income. The Board of Pardons and Paroles will be notified of the amount of restitution by its parole officers and when and if the defendant is paroled, it shall be made a condition of his parole to continue his restitution payments to the victim. If during the period of the defendant's parole, he fails to make restitution as ordered by the original court, it shall be grounds for revocation of parole.



**Section 8.** When a defendant whose sentence has been suspended and placed on probation by the court, and ordered to make restitution, defaults in the payment thereof or of any installment, the court on motion of the victim or the District Attorney or upon its own motion shall require the defendant to show cause why his default should not be treated as violation of a condition of his probation.

When the defendant is sentenced to the penitentiary by the court, and the court orders restitution, it shall be made a condition of his parole that restitution be made. When the parolee defaults in the payment thereof or any installment, the parole board on motion of the victim or the District Attorney or the supervising parole officer, may require the defendant to show cause why his default should not be treated as a violation of a condition of parole, and the Board may declare the parolee delinquent and after due process may revoke his parole.

**Section 9.** When an order of restitution is imposed upon a defendant which is a corporation, unincorporated association, partnership or other business entity, it shall be the duty of the person or persons authorized to make disbursements from the assets of such defendant to make restitution from those assets and a failure to do so by such person or persons may be held to be in contempt of court unless a showing be made to the contrary as pursuant to the provisions of Section VIII.

Any corporation, unincorporated association, or other business entity which fails to make restitution as ordered by the court shall forfeit its rights to do business within the State of Alabama and its charter or other legal grant of the right to do such business may be dissolved by the court.

**Section 10.** Whenever an offender in the custody of the department of corrections is paroled, the Board of Pardons and Paroles will inform him of the court's imposition of restitution payments and the supervising parole officer will see that the schedule of payment of restitution is resumed and continued until paid in full.

**Section 11.** Nothing in this chapter limits or impairs the right of a person injured by a defendant's criminal activities to sue or recover damages from the defendant in a civil action. Evidence that the defendant has paid or has been ordered to pay restitution pursuant to this act may not be introduced in any civil action arising out of the facts or events which were the basis for the restitution. However, the court shall credit any restitution paid by the defendant to a victim against any judgment in favor of the

victim in such civil action.

If conviction in a criminal trial necessarily decides the issue of a defendant's liability for pecuniary damages for a victim, that issue is conclusively determined as to the defendant, if it is involved in a subsequent civil action.

**Section 12.** The county commissions of several counties and the governing authorities of municipalities are hereby authorized to cooperate with the State Board of Pardons and Paroles in the establishment of restitution centers. Such centers shall be operated by the State Board of Pardons and Paroles. County or municipal property may be utilized with the approval of the county commission or municipal governing authority for the construction, renovation, and maintenance of facilities owned by the state or a local political subdivision. Such a facility may be furnished or leased to the Board of Pardons and Paroles for a period of time for use as a restitution center.

It is the intent of this section that county and local governments contribute only to the establishment, renovation, furnishing, and maintenance of the physical plant of the restitution center and that the Board of Pardons and Paroles support the operation of and have the responsibility of offenders in such centers. Provided, however, that no provision of this act shall operate so as to deprive the court of its power to revoke probation of residence or the State Board of Pardons and Paroles' power to revoke parolees housed in the center.

**Section 13.** The State Board of Pardons and Paroles, the county commissions and the governing authorities of municipalities are hereby authorized to cooperate in the institution and administration of services at restitution centers as authorized in Section 7 of this act.

The Board of Pardons and Paroles, the county commissions and the governing authorities of municipalities are authorized jointly;

(a) to seek funding from federal or other sources to provide the maximum supportive services for offenders and the families of offenders who are participating in the restitution program.

(b) to develop additional programs whereby the offenders may be afforded the opportunity to contribute to society and the support of their families through restitution programs; and

(c) to develop pilot programs of counseling, training and job placement whereby restitution may be accomplished; such programs may be residential or nonresidential as appropriate.

**Section 14.** The provisions of this act are severable. If any

part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 15.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 16.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 9:45 A.M.

---

Act No. 80-589

S. 625—Cook

### AN ACT

Relating to Tuscaloosa County; levying an additional privilege license tax on malt or brewed beverages; providing for the collection and distribution of the proceeds of such tax; and providing for the administration and enforcement of this Act including penalties for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby levied and imposed an additional privilege license tax in the amount of three cents (3¢) on each twelve (12) fluid ounces or fractional part thereof of malt or brewed beverages (including beer, lager, ale, porter, or similar fermented liquor containing one-half of one percent or more of alcohol by volume) sold, used, consumed, stored, or withdrawn from storage in Tuscaloosa County; provided, that where the amount of the tax levied under the provisions of this Act shall have been paid by any seller, distributor, storer or user, and evidenced by the appropriate stamps as provided for below, such payment shall be sufficient, the intent being that the tax levied by this Act shall be paid but once. The privilege or license tax provided for herein shall be in addition to all other taxes and licenses now or hereafter authorized or imposed by law.

**Section 2.** The privilege or license tax imposed by this Act shall be collected by or under the supervision of the probate judge of Tuscaloosa County in the same manner and under the same conditions as provided for any tax levied under Act 556, Regular Session 1953 (Acts of Alabama 1953, p. 784), and the proceeds (less the costs of collection and administration as provided in said Act 556) shall be distributed as follows:

(a) Thirty-six percent (36%) to the City of Tuscaloosa to be used exclusively for salary increases over and above salary and benefits paid to employees of the city. Sixty percent (60%) of the thirty-six percent (36%) of those revenues derived by the City of Tuscaloosa from this Act shall be used to provide an equal bonus payment to the Tuscaloosa Law Enforcement officers who are Civil Service employees and who have been certified by the Peace Officers' Standards and Training Commission of the State of Alabama as peace officers and equally to the City of Tuscaloosa firemen who are Civil Service employees. Forty percent (40%) of those revenues derived by the City of Tuscaloosa under the provisions of this Act shall be divided equally to all other full-time employees of the City of Tuscaloosa. These salary increases shall be paid in the form of an annual bonus payable during the first pay period one year after the passage of this Act. Any future growth in the revenues derived by the City of Tuscaloosa or any interest that may be earned by these funds as a result of this Act shall be distributed to the City of Tuscaloosa employees in the manner mandated by this Act.

(b) Ten percent (10%) to the City of Northport to be deposited in the city general fund to be used exclusively for bonus payments over and above present salaries and benefits in the following manner: Sixty percent (60%) of the ten percent (10%) shall be used to grant bonus payments to public safety employees over and above their present salaries. Forty percent (40%) of the ten percent (10%) shall be used exclusively for bonus payments of other city employees over and above their present salaries.

(c) Two percent (2%) to the Town of Vance, to be deposited in the town's general fund.

(d) Two percent (2%) to the Town of Brookwood, to be deposited in the town's general fund.

(e) Forty-two percent (42%) to Tuscaloosa County to be deposited in the county general fund to be used exclusively to fund salaries of employees in the sheriff's department, such salaries and uniform equipment to be comparable to the salaries and uniform equipment of state troopers as provided by law, and any remaining funds to be used for salaries of county employees.

(f) Eight percent (8%) to the Tuscaloosa County Parks and Recreation Authority for capital outlay, park renovation, and park improvement. These funds may not be used to pay salaries or general operating costs.

**Section 3.** The probate judge of Tuscaloosa County may

provide rules and regulations and administrative machinery for the enforcement and collection of the privilege license tax provided by this Act, and may also provide reasonable compensation to sellers and distributors of malt or brewed beverages for the expenses of compliance with such rules and regulations. The probate judge may employ such personnel as may be needed to collect and enforce the tax, and shall fix their compensation and tenure. Each city receiving any funds under this Act shall provide aid and assistance in enforcing the tax herein authorized within its territory.

**Section 4.** Any person, firm, or corporation who violates any provision of this Act or the rules and regulations as may be provided by the probate judge of Tuscaloosa County shall be guilty of a misdemeanor and upon conviction shall be punished as prescribed by law. Each month such violation continues shall constitute a separate offense.

**Section 5.** Any person, firm, or corporation who fails to pay the tax herein levied within the time prescribed by this Act shall pay, in addition to the tax, a penalty of ten percent (10%) of the amount of tax, together with interest thereon at the rate of one-half of one percent per month or fraction thereof, from the date at which the tax herein levied became payable, such penalty and interest to be assessed and collected as a part of the tax.

**Section 6.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this Act are hereby repealed. Any other act, relating to the levy, collection and distribution of an additional privilege license tax on malt or brewed beverages in Tuscaloosa County, which was enacted during the 1980 Regular Session is hereby specifically repealed.

**Section 8.** This Act shall become effective on the first day of the second month immediately after its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 28, 1980

Time: 2:15 P.M.

To alter or rearrange the boundary lines of the City of Hoover, Jefferson County, Alabama, so as to include within the corporate limits of said city all territory now within such corporate limits and also certain other territory contiguous thereto, in Jefferson and Shelby County, Alabama, to provide for an election by residents of the territory to be annexed, and to expressly provide that nothing herein contained shall amend, alter or re-arrange the present boundary line between Jefferson and Shelby Counties, nor annex any public school property owned by the Shelby County Board of Education.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the City of Hoover, Jefferson County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Hoover and in addition thereto the following described territory situated in Jefferson and Shelby Counties, to-wit:

Commence at the Northwest corner of the Northwest one-quarter of the Southwest One-Quarter of Section 20, Township 19 South, Range 2 West, run thence East along the North line of said Quarter-Quarter section for a distance of 250 feet more or less to a point on the Westerly right-of-way line of Interstate Highway I-65, said point being the point of beginning. From the point of beginning thus obtained, thence run in a Southeasterly, Southerly and Southwesterly direction along the Southwesterly, Westerly and Northwesterly right-of-way line of Interstate Highway I-65 for a distance of 5,665 feet more or less to its intersection with the Northwesterly right-of-way line of Valleydale Road; thence run in a Southwesterly direction along the Northwesterly right-of-way line of Valleydale Road for a distance of 100 feet more or less to its intersection with the East line of the Northwest One-Quarter of the Southeast One-Quarter of Section 30, Township 19 South, Range 2 West; run thence South along the East line of said Quarter-Quarter for a distance of 1,257 feet more or less to the Northeast corner of the Southwest Quarter of the Southeast Quarter of Section 30, Township 19 South, Range 2 West; run thence in a Southerly direction along the East line of said Quarter-Quarter Section to the Southeast corner of the Southwest Quarter of the Southeast Quarter of Section 30, Township 19 South, Range 2 West; thence run in a Westerly direction along the South line of said Quarter-Quarter Section to the Southwest corner of the Southwest Quarter of the Southeast Quarter of Section 30, Township 19 South, Range 2 West; thence run in a Northerly direction along the West line of the Southeast Quarter of Section 30, Township 19 South, Range 2 West for a distance of 1,570 feet more or less to its intersection with the Northwesterly right-of-way line of Valleydale Road; thence run in a Southwesterly direction along the Northwesterly right-of-way line of Valleydale Road for a distance of 790 feet more or less to its

intersection with the existing Pelham City Limits; thence run in a Northerly direction along the Easterly line of the existing Pelham City Limits for a distance of 1,500 feet more or less; thence run in a Westerly direction along the existing Northerly line of said Pelham City Limits for a distance of 360 feet more or less; thence run in a Southerly direction along the Westerly line of Pelham City Limits for a distance of 1,740 feet more or less to its intersection with the Northwesterly right-of-way line of Valleydale Road; thence run in a Southwesterly direction along the Northwesterly right-of-way line of Valleydale Road to its intersection with the Easterly right-of-way line of U. S. Highway 31; thence run in a Northwesterly direction along the Easterly right-of-way line of U.S. Highway 31 to its intersection with the North line of the Southwest Quarter of the Southwest Quarter of Section 30, Township 19 South, Range 2 West; run thence in a Westerly direction along the North line of said Quarter-Quarter Section to the Northeast corner of the South half of the Southeast Quarter of Section 25, Township 19 South, Range 3 West; thence run in a Westerly direction along the North line of the South half of the Southeast Quarter of Section 25, Township 19 South, Range 3 West to the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 25, Township 19 South, Range 3 West; run thence in a Westerly direction along the North line for a distance of 655 feet more or less to the Northwest corner of the present Pelham City Limits; thence run South along the West line of the present Pelham City Limits for a distance of 1,316 feet more or less to a point on the South line of Section 25, Township 19 South, Range 3 West; thence run in a Westerly direction along the South line of said Section to the Southeast corner of Section 26, Township 19 South, Range 3 West; thence run in a Westerly direction along the South line of said Section 26 to its intersection with the Southeasterly right-of-way line of Parkway West located on Map titled First Addition to Riverchase Country Club as recorded in Map Book 7, Page 115 in the Office of the Judge of Probate, Shelby County, Alabama; thence run in a Southwesterly and Westerly direction along the Southeasterly and Southerly boundary line of Parkway West to its intersection with the East line of the Northwest Quarter of the Northeast Quarter of Section 35, Township 19 South, Range 3 West; run thence in a Southerly direction along the East line of said Quarter-Quarter Section to the Southeast corner of the Northwest Quarter of the Northeast Quarter of Section 35, Township 19 South, Range 3 West; run thence in a Westerly direction along the South line of said Quarter-Quarter Section to the Northwest corner of the Southwest Quarter of Northeast Quarter of Section 35, Township 19 South, Range 3 West; run thence in a Southerly direction along the West line of said Quarter-Quarter Section to the Southwest corner of the Northeast

Quarter of Section 35, Township 19 South, Range 3 West; thence run in an Easterly direction along the South line of the Northeast Quarter of Section 35, Township 19 South, Range 3 West to the Northeast corner of the Northeast Quarter of the Southeast Quarter of said Section 35; run thence in a Southerly direction along the East line of said Quarter-Quarter Section to the Southeast corner of the Northeast Quarter of the Southeast Quarter of Section 35, Township 19 South, Range 3 West; run thence in a Westerly direction along the South line of said Quarter-Quarter Section to the Northeast corner of the Southwest Quarter of the Southeast Quarter of said Section 35; thence run in a Southerly direction along the East line of said Quarter-Quarter Section to the South line of Section 35, Township 19 South, Range 3 West; thence run in a Westerly direction along the South line of Section 35, Township 19 South, Range 3 West to the Southeast corner of Section 34, Township 19 South, Range 3 West; run thence in a Westerly direction along the South line of said Section 34 to the Southwest corner of the East half of the Southeast Quarter of Section 34, Township 19 South, Range 3 West; run thence in a Northerly direction along the West line of the East half of the Southeast Quarter of said Section 34 to its intersection with the center line of the Cahaba River; thence Northeasterly, Northerly, Northwesterly, Northeasterly, Easterly and Northeasterly along meandering of the center of the Cahaba River for a distance of 11,600 feet more or less to the North line of the Northwest One-Quarter of the Southeast One-Quarter of Section 26, Township 19 South, Range 3 West; thence East along the North line of said Quarter-Quarter Section for a distance of 90 feet more or less to the Northwest corner of the Northeast Quarter of the Southeast Quarter of said Section; thence East along the North line of said Quarter-Quarter for a distance of 659 feet more or less to the Southwest corner of the East one-half of the Southeast One-Quarter of the Northeast One-Quarter of Section 26, Township 19 South, Range 3 West; run thence North 00 degrees, 11 minutes, 37 seconds, East along the West line of said East Half of the Southeast Quarter of the Northeast Quarter of Section 26, Township 19 South, Range 3 West for a distance of 1,257 feet; thence North 49 degrees, 19 minutes, 37 seconds East for a distance of 102 feet more or less to a point on the North line of the Southeast Quarter of the Northeast Quarter of said Section 26; thence East along said North line 584 feet more or less to the Northwest corner of the Southwest One-Quarter of the Northwest One-Quarter of Section 25, Township 19 South, Range 3 West; thence East along the North line of said Quarter-Quarter Section for a distance of 1,315 feet more or less to the Southwest corner of the Northeast Quarter of the Northwest One-Quarter of said Section 25; thence East along the South line of



said Northeast Quarter of the Northwest Quarter of said Section 25 for a distance of 1,322 feet more or less to the Southeast corner of said Northeast Quarter of Northwest Quarter of said Section 25; thence North 00 degrees, 12 minutes, 53 seconds East along the East line of said Quarter-Quarter Section for a distance of 563 feet; thence North 89 degrees, 02 minutes, 53 seconds West 576 feet; thence North 00 degrees, 12 minutes, 51 seconds East for a distance of 756 feet more or less to the North line of Section 25, Township 19 South, Range 3 West; run thence in an Easterly direction along the North line of said Section for a distance of 1,193 feet more or less to a point on the West line of lot 25 of Second Addition to Riverchase West, residential subdivision, as recorded in Map Book 7, Page 59 in the Office of the Judge of Probate, Shelby County, Alabama; thence run in a Northerly direction along the West lines of lots 25 and 24 to the Northwest corner of lot 24 of said Second Addition to Riverchase West; thence run in an Easterly direction along the North line of said lot 24 of said subdivision for a distance of 210.02 feet; thence run in a Northerly direction along the West line of lot 23 of said Second Addition to Riverchase West Subdivision for a distance of 210.29 feet to the Northwest corner of said lot 23; thence run in an Easterly direction along the North line of said lot 23 for a distance of 201.25 feet to the Northeast corner of said lot 23; thence run in a Southerly direction along the Easterly lines of lots 23, 22 and 21 of said Second Addition to Riverchase West to its intersection with the South line of Section 24, Township 19 South, Range 3 West; run thence in an Easterly direction along the South line of said Section to the Southwest corner of the East half of the Southeast Quarter of said Section 24, Township 19 South, Range 3 West; run thence in a Northerly direction along the West line of the East one-half of the Southeast Quarter of Section 24, Township 19 South, Range 3 West to its intersection with the center line of the Cahaba River; thence run in an Easterly direction along the center line of the Cahaba River to its intersection with the Southwesterly right-of-way line of U.S. 31 South; run thence in a Northwesterly direction along the Southwesterly right-of-way line of U. S. Highway 31 South to its intersection with the North line of the Southeast Quarter of Section 24, Township 19 South, Range 3 West; run thence in a Westerly direction along the North line of the Southeast Quarter of Section 24, Township 19 South, Range 3 West to the Northwest corner of said Southeast Quarter; thence run in a Southerly direction along the West line of the Southeast Quarter of Section 24, Township 19 South, Range 3 West to the North bank of the Cahaba River; thence run in a Southwesterly direction along the meanderings of the North bank of the Cahaba River to its intersection with the North line of the Southwest Quarter of the Southwest Quarter of Section 24, Township 19 South, Range 3

West; run thence in a Westerly direction along the North line of said Quarter-Quarter Section of the Southwest corner of the Northwest Quarter of the Southwest Quarter of Section 24, Township 19 South, Range 3 West; run thence in a Northerly direction along the West line of said Quarter-Quarter Section for a distance of 496.68 feet more or less to its intersection with the Southeasterly right-of-way line of the Old Montgomery Highway; thence run in a Northeasterly direction along the Southeasterly right-of-way of the Old Montgomery Highway for a distance of 1,147 feet more or less to the most Westerly corner of a parcel of land recorded in Real Volume 321, Page 508 in the Office of the Judge of Probate, Jefferson County, Alabama; thence run South 61 degrees, 21 minutes, 05 seconds East along the Southwesterly line of said parcel of land for a distance of 209.89 feet; thence North 28 degrees, 22 minutes, 45 seconds East for a distance of 640.41 feet; thence South 9 degrees, 38 minutes, 35 seconds East for a distance of 337.85 feet; thence North 30 degrees, 28 minutes, 30 seconds East for a distance of 423.61 feet; thence South 9 degrees, 44 minutes, 50 seconds East for a distance of 395.81 feet; thence South 87 degrees, 38 minutes, 10 seconds East for a distance of 418.84 feet; thence North 9 degrees, 46 minutes, 05 seconds West for a distance of 1,099.38 feet to a point on the South line of the North half of the Northwest Quarter of Section 24, Township 19 South, Range 3 West; run thence North 89 degrees, 01 minutes, 45 seconds West for a distance of 1,684.01 feet to the Northeast corner of the Southeast Quarter of the Northeast Quarter of Section 23; Township 19 South; Range 3 East; thence South 00 degrees, 08 minutes, 55 seconds West along the East line of said Quarter-Quarter Section for a distance of 568.65 feet; thence South 51 degrees, 50 minutes, 40 seconds West for a distance of 1200.94 feet to a point on the North line of the Northeast Quarter of the Southeast Quarter of Section 23, Township 19 South, Range 3 West; thence run South 89 degrees, 10 minutes, 30 seconds East along the North line of said Quarter-Quarter Section for a distance of 942.64 feet to the Northeast corner of said Quarter-Quarter Section; thence run South 00 degrees, 17 minutes, 10 seconds East along the East line of Section 23, Township 19 South, Range 3 West for a distance of 122.0 feet; run thence North 77 degrees, 35 minutes, 10 seconds West for a distance of 183.50 feet; thence run South 65 degrees, 15 minutes, 35 seconds West for a distance of 390.60 feet; thence run South 51 degrees, 09 minutes, 35 seconds West for a distance of 184.98 feet; thence run South 16 degrees, 26 minutes, 35 seconds West for a distance of 48 feet; thence run South 38 degrees, 41 minutes, 55 seconds East for a distance of 309.55 feet; thence run South 49 degrees, 19 minutes, 50 seconds West for a distance of 155.25 feet; thence run North 42 degrees, 31 minutes, 55 seconds West for a distance of 347.94 feet;

thence run South 39 degrees, 27 minutes, 50 seconds West for a distance of 450.80 feet; thence run South 41 degrees, 32 minutes, 10 seconds East for a distance of 300.63 feet; thence run North 46 degrees, 27 minutes, 50 seconds East for a distance of 337.30 feet; thence run South 22 degrees, 16 minutes, 10 seconds East for a distance of 133.95 feet; thence run South 43 degrees, 44 minutes, 10 seconds East for a distance of 90.66 feet; thence run South 37 degrees, 40 minutes, 55 seconds East for a distance of 103.30 feet; thence run South 7 degrees, 45 minutes, 50 seconds East for a distance of 104.01 feet; thence run South 19 degree, 52 minutes, 50 seconds East for a distance of 177.85 feet; thence run South 7 degrees, 08 minutes, 25 seconds East for a distance of 154.00 feet; thence run South 22 degrees, 23 minutes, 25 seconds East for a distance of 109.80 feet; thence run South 24 degrees, 11 minutes, 25 seconds East for a distance of 7.60 feet; thence run North 57 degrees, 56 minutes, 50 seconds East for a distance of 122.08 feet; run thence North 41 degrees, 08 minutes, 00 seconds East for a distance of 159.74 feet to a point on the Southwesterly right-of-way line of Old Montgomery Highway; thence run South 24 degrees, 13 minutes, 55 seconds East along the Southwesterly right-of-way line of Old Montgomery Highway for a distance of 30 feet; thence run South 40 degrees, 04 minutes, 10 seconds West for a distance of 149.30 feet; thence run South 58 degrees, 06 minutes, 10 seconds West for a distance of 132.84 feet; thence run South 24 degrees, 09 minutes, 25 seconds East for a distance of 37.54 feet; thence run South 56 degrees, 17 minutes, 26 seconds East for a distance of 58 feet to a point on the Northwesterly bank of the Cahaba River; thence run in a Southwesterly direction along the Northwesterly bank of the Cahaba River for a distance of 1,410 feet to a point on the South line of Section 23, Township 19 South, Range 3 West; run thence in a Westerly direction along the South line of said Section for a distance of 548 feet to a point on the center line of Patton Creek; thence run in a Southeasterly direction along the center line of Patton Creek for a distance of 270 feet to its intersection with the Northwesterly bank of the Cahaba River if projected across Patton Creek; thence run in a Southwesterly direction along said projection and the Northerly bank of the Cahaba River for a distance of 640 feet more or less to a point that is South 00 degrees, 01 minutes, 25 seconds West 750 feet and South 89 degrees, 13 minutes, 20 seconds East 480 feet from the Northwest corner of the Northeast One-Quarter of Section 26, Township 19 South, Range 3 West; thence run North 89 degrees, 13 minutes, 20 seconds West for a distance of 480 feet to a point on the West line of the Northeast One-Quarter of Section 26, Township 19 South, Range 3 West; thence run North 00 degrees, 01 minutes, 25 seconds East along the West line of said Northeast One-Quarter of

Section 26 for a distance of 750 feet to the Northeast corner of said Northeast One-Quarter of Section 26; thence run in a Northerly direction along the West line of the Southeast One-Quarter of Section 23, Township 19 South, Range 3 West to its intersection with the Southeasterly right-of-way line of Alabama Highway 150; thence run in a Northeasterly direction along the Southeasterly right-of-way line of Alabama Highway 150 for a distance of 670.52 feet to a point on the South line of the Southwest Quarter of the Northeast Quarter of Section 23, Township 19 South, Range 3 West; thence run in an Easterly direction along the South line of said Quarter-Quarter Section for a distance of 834.98 feet to the Southeast corner of the Southwest Quarter of the Northeast Quarter of said Section 23; thence run in a Northerly direction along the East line of said Quarter-Quarter Section to its intersection with the Southeasterly right-of-way line of Alabama Highway 150; thence run in a Northeasterly direction along the Southeasterly right-of-way line of Alabama Highway 150 for a distance of 1,600 feet more or less to the West line of section 24, Township 19 South, Range 3 West; thence run in a Northerly direction along the West line of Section 24, Township 19 South, Range 3 West to the Southwest corner of Section 13, Township 19 South, Range 3 West; thence run in a Northerly direction along the West line of said Section 13 to the Northwest corner of the Southwest Quarter of the Southwest Quarter of Section 13, Township 19 South, Range 3 West; thence run in an Easterly direction along the North line of the South one-half of the Southwest Quarter of Section 13, Township 19 South, Range 3 West to its intersection with the Southwesterly right-of-way line of U. S. 31 South; thence run in a Northwesterly direction along the Southwesterly right-of-way line of U. S. Highway 31 and the present City Limits of Hoover to its intersection with the North line of the Southeast Quarter of the Northwest Quarter of Section 13, Township 19 South, Range 3 West; run thence in an Easterly direction along the North line of said Quarter-Quarter Section to the Northeast corner of the Southeast Quarter of the Northwest Quarter of Section 13, Township 19 South, Range 3 West; run thence in a Southerly direction along the East line of said Quarter-Quarter Section to the Northwest corner of the Northwest One-Quarter of the Southeast One-Quarter of Section 13, Township 19 South, Range 3 West; run thence in an Easterly direction along the North line of said Quarter-Quarter Section to a point that is 898.72 feet Westerly from the Northeast corner of the Northwest One-Quarter of the Southeast One-Quarter of Section 13, Township 19 South, Range 3 West; thence turn an angle to the right of 88 degrees, 52 minutes and run in a Southerly direction along the present City Limits of Hoover for a distance of 528.70 feet; thence

turn an angle to the left of 96 degrees, 17 minutes, 06 seconds and run in a Northeasterly direction along the present City Limits line of Hoover for a distance of 623.72 feet; thence turn an angle to the right of 30 degrees, 50 minutes, 29 seconds and run in a Southeasterly direction along the present City Limit line of Hoover for a distance of 49.57 feet; thence turn an angle to the right of 44 degrees, 01 minutes, 37 seconds and run in a Southeasterly direction along the present City Limits of Hoover for a distance of 145 feet; thence turn an angle to the left of 96 degrees, 00 minutes and run in a Northeasterly direction along the present City Limits of Hoover for a distance of 203 feet to a point on the East line of the Northwest One-Quarter of the Southeast One-Quarter of Section 13, Township 19 South, Range 3 West; thence run in a Southerly direction along the East line of said Quarter-Quarter Section to its intersection with the Northwesterly right-of-way line of Lorna Road; thence run in a Northeasterly direction along the Northwesterly right-of-way line of Lorna Road to a point that is 539.88 feet Westerly of the East line of Section 13, Township 19 South, Range 3 West; run thence South 00 degrees, 10 minutes, 00 seconds East for 1,635 feet more or less to a point that is 650.40 feet North of the South line of Section 13, Township 19 South, Range 3 West; thence run North 89 degrees, 51 minutes, 15 seconds East for a distance of 539.88 feet to a point on the East line of Section 13, Township 19 South, Range 3 West; thence run South 0 degrees, 10 minutes East along the East line of said Section for a distance of 268.56 feet; thence run South 87 degrees, 59 minutes, 45 seconds East for a distance of 935.11 feet; thence run North 00 degrees, 9 minutes West for a distance of 930.39 feet to a point on the North line of the Southwest One-Quarter of the Southwest One-Quarter of Section 18, Township 19 South, Range 2 West; thence run South 87 degrees, 58 minutes, 55 seconds East for a distance of 377.71 feet to the Northwest corner of the Southeast One-Quarter of the Southwest One-Quarter of Section 18, Township 19 South, Range 2 West; thence run South 87 degrees, 58 minutes, 55 seconds East along the North line of said Quarter-Quarter Section for a distance of 1,055.24 feet; thence run South 00 degrees, 07 minutes East for a distance of 1,330.65 feet to a point on the North line of Section 19, Township 19 South, Range 2 West; thence run North 87 degrees, 49 minutes, 05 seconds West along the North line of said Section for a distance of 1,053.91 feet to the Northeast corner of the Northwest Quarter of the Northwest Quarter of Section 19, Township 19 South, Range 2 West; thence run South 0 degrees, 10 minutes, 10 seconds East along the East line of the West half of the Northwest Quarter of Section 19, Township 19 South, Range 2 West for a distance of 1,637 feet more or less to the center line of the Cahaba River; thence run in an Easterly, Southeasterly and Northeasterly

direction along the center line of the meanderings of the Cahaba River to its intersection with the Westerly right-of-way line of Interstate Highway I-65; thence run in a Southerly, Southeasterly, Southwesterly and Southeasterly direction along the Westerly right-of-way line of Interstate Highway I-65 for a distance of 1,613 feet more or less to the point of beginning.

**Less and except the following described parcels:**

**Parcel 1.** That property presently owned by Chase Lake Country Club, Inc., as recorded in Real Volume 714, Page 535 and Volume 185, Page 334, in the Office of the Judge of Probate, Jefferson County, Alabama.

**Parcel 2.** That parcel of land presently owned by the Shelby County Board of Education, said property being described in Book 303, Page 273 in the Office of the Judge of Probate, Shelby County, Alabama.

**Parcel 3.** Less and except that property presently known as Riverchase Country Club, said map and descriptions of same being shown on a boundary survey for Riverchase Country Club, dated July 16, 1976, and revised November 26, 1976, and revised again on November 17, 1978, said survey being on file with the City Clerk, City of Hoover, Alabama.

**Section 2.** This Act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of Jefferson and Shelby Counties who live in the area to be annexed voting thereon at a referendum held for such purpose. The Boards of Registrars of Jefferson and Shelby Counties shall furnish to the City Clerk of the City of Hoover the names of those electors qualified to vote in this election no later than fifteen (15) days prior to the date of the election provided for herein. The election shall be held and conducted as nearly as may be in the same manner as municipal elections, and shall be called and held by the City of Hoover no earlier than ninety days following the effective date of this Act nor later than on the same day as the next general election of the municipal, county or state officers next following ninety days from the effective date of this Act. The City Clerk shall give notice, which notice shall be published in newspapers of general circulation in Jefferson and Shelby Counties, Alabama, once each week for three consecutive weeks before the day of the election. On ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

"Do you favor the annexation of the property described in the notice calling for this election to the City of Hoover? Yes ( )  
No ( )"

If a majority of the votes cast at the election are affirmative votes, this Act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, this Act shall have no further effect. The votes shall be certified as provided by law, and all costs incurred with the said referendum shall be borne by the City of Hoover.

**Section 3.** Nothing contained in this Act shall be construed to amend, alter or re-arrange the existing boundary line between Jefferson and Shelby Counties, nor to annex any public school property owned by the Shelby County Board of Education.

**Section 4.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 6.** The provisions of this Act calling for an election shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, and all other provisions shall become effective as otherwise herein stated.

Approved May 28, 1980

Time: 2:15 P.M.

---

Act No. 80-591

S. 529—Little

### AN ACT

To amend Sections 36-18-1 through 36-18-4, Code of Alabama 1975, which establish and provide for the duties of the office of State Toxicologist, so as to provide further for the duties and rename the office.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 36-18-1, 36-18-2, 36-18-3, and 36-18-4, Code of Alabama 1975, are hereby amended to read as follows: “§36-18-1. There shall be a director of Department of Forensic Sciences who shall be appointed by the attorney general upon certification by the director of state personnel as meeting job qualifications specified for this position in the state service. The director may be removed by the governor only upon such proof as would authorize the impeachment of a district attorney under the laws of this state.”

“§36-18-2. The duties of the director shall be to make such investigations, including any necessary autopsy, to be performed by physicians licensed to practice medicine in Alabama and

recognized and trained in forensic medicine and pathology; provided, however that the Director may waive this requirement temporarily whenever a medical examiner vacancy exists which he is seeking to fill. Said investigations of unlawful, suspicious or unnatural deaths and crimes as are ordered by the governor, the attorney general, any circuit judge, or any district attorney in the state of Alabama, and the director and his staff shall cooperate with the coroners, sheriffs and other police officers in Alabama in their investigations of crimes and deaths from unlawful, suspicious or unnatural causes. The director shall within his discretion visit the scene of any crime in the state for the purpose of securing evidence for the state. The director shall furnish a certified copy of his report of any investigation that the Department conducts to the person or persons who ordered the investigation conducted. The director shall keep the original reports of all investigations that he conducts in his office; provided, that the director shall be authorized to photograph or microphotograph any record, document or photograph two years old or older currently maintained or acquired, received or produced in the future as a result of his duties as prescribed by law. Such photographs, microfilms or prints made therefrom, when duly authenticated, shall have the same force and effect at law as the original record or of a record made by any other legally authorized means and may be offered in like manner and shall be received in evidence in any court where such original record or record made by other legally authorized means could have been so introduced and received. In like manner, reproductions made from such records by photographic or like process, when otherwise in compliance with applicable statutes, rules and regulations, shall be received and treated in any court of this state as fully as would a transcription or reproduction of such records made by any other means or process. All original records, documents, and photographs two years old or older currently maintained and acquired in the future may be destroyed at the discretion of the director, provided photographed or microphotographed reproductions of the destroyed material are maintained. The director shall furnish a certified copy in the form of reproductions from the photographed or microphotographed reports of any investigation that he conducts to the person or persons who ordered the investigation conducted. The director shall keep photographed or microphotographed reproductions of original reports of all investigations that he conducts in his office. Reproductions of such materials shall be public records and shall be open to public inspection at all reasonable times. Any person desiring reproductions of original reports shall be furnished same upon payment of the fee now prescribed by law.



"It shall be the further duty of the director to cooperate with the commissioner of agriculture and industries and the state veterinarian in their investigations of deaths of domestic animals in cases of suspected criminal poisoning of such animals. The director shall perform such other duties as are prescribed by the governor or the attorney general of Alabama.

"The director and his designated assistants shall exercise the same police authority as any deputy sheriff or State Trooper in the state of Alabama."

"§36-18-3. The director shall maintain an office and a laboratory for the scientific investigation of deaths and crime at Auburn, Alabama, and shall be furnished adequate quarters by the state for the conduct of his office and laboratories. The director, with the approval of the attorney general and the governor, shall maintain such other offices and laboratories in this state as are necessary to carry out the provisions of this chapter."

"§36-18-4. The salary of the director shall be established as provided in section 36-6-6 and shall be payable out of the funds provided therefor in the general appropriation bill or out of any funds in the state treasury not otherwise appropriated and as the salaries of other state officers are paid. The director and his staff shall be furnished with offices and laboratories at the expense of the state and shall also be allowed all necessary expenses for the equipment and conduct of his offices and laboratories, including stenographic and laboratory assistance, for the purpose of carrying out the provisions of this chapter. Such expenses are to be paid by warrants approved by the governor and shall be limited in amount to the sum provided therefor in the general appropriation bill. All funds expended under the provisions of this chapter shall be budgeted and allotted in accordance with the provisions of article 4, chapter 4, Title 41 of this Code."

**Section 2.** All present employees of the office of state toxicologist (State Department of Toxicology and Criminal Investigation) shall remain in their respective positions and continue to enjoy employment conditions, including, but not limited to, salary range and advancement at a level no less than those enjoyed prior to the enactment of this Act. However, nothing herein shall be construed to prevent or preclude the removal of an employee for cause in the manner provided by law.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon

its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 2:50 P.M.

---

Act No. 80-592

H. 74—Mitchell

### AN ACT

Relating to Tuscaloosa County; to provide further for the salaries of the coroner and deputy coroner; and to provide for an expense allowance for the coroner.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Beginning with their next term of office, the coroner of Tuscaloosa County shall receive a salary of \$300.00 per month and the deputy coroner shall receive a salary of \$100.00 per month. Such salaries shall be paid in lieu of any other salaries heretofore provided by law and shall be paid from the general funds of the county.

**Section 2.** Beginning October 1, 1980 the coroner shall receive an expense allowance of \$200.00 per month to cover expenses incurred by him in and about the performance of his duties as such officer. This allowance shall be paid in lieu of any other expense allowance now allowed to him by law, and shall be paid from the general funds of the county.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 2:50 P.M.

---

Act No. 80-593

H. 533—Owens

## AN ACT

To make appropriations for the ordinary expenses of the executive, legislative and judicial departments of the State, for other functions of government, for interest on the public debt, for capital outlay, and for the public schools for the fiscal year ending September 30, 1981.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The monies in Section 2 are appropriated from the named funds for the 1980-81 fiscal year to the state agency indicated, as the amounts to be used to pay the expenditures of the named agencies, and are in lieu of all monies appropriated for these purposes in other sections of the Alabama Statutes.

For the purpose of this Act, the amounts herein for expenditures are listed by programmatic area and the total for all programs are shown by the source of funds. It is intended that only the named funds be appropriated to the agency concerned; and that the following definitions shall be applicable:

(a) "Appropriation Total" shall mean the aggregate total of all fund sources.

(b) "Program" shall mean specific governmental services required to achieve a specific objective. A program shall be directed to meeting the needs of an identified clientele, or group of recipients or beneficiaries.

(c) "Capital Outlay" shall mean expenditures which result in the acquisition and/or addition to items, such as land or buildings, which have an appreciable and calculable period of usefulness in excess of one year, and shall be expended only for such purposes.

(d) "Debt Service" shall mean an expenditure for the payment of interest and principal on all bonded debt obligations of the State, and shall be expended only for such purposes.

**Section 2.** There is hereby appropriated for the ordinary expenses of the executive, legislative, and judicial departments of the State, for other functions of government, for the principal and interest on the public debt, for capital outlay, and for the public schools for the fiscal year ending September 30, 1981, to be paid out of any monies hereinafter specified, from such other funds and accounts as may be designated, or so much thereof as may be necessary, and the total amount to be expended for the items for which the appropriation is herein made shall not exceed the amount provided therefor, except as provided in the Budget Management Act on 1976, Act No. 494, 1976 Regular Session. Provided, however, that if at the end of any fiscal year, a pay period which has been or

may be established by the Legislature providing for the payment of salaries of State Employees overlaps from one fiscal year into the next fiscal year, payment for the total pay period shall be made from the new fiscal year's appropriation.

	Fund Sources Included In Appropriation Total	
	General Fund	Trust Funds
		Appropriation Total
<b>A. LEGISLATIVE:</b>		
<b>1. EXAMINERS OF PUBLIC ACCOUNTS, DEPARTMENT OF:</b>		
(a) Legislative Support — Audit Services Program .....		2,530,020
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	2,530,020	
Total Department of Examiners of Public Accounts .....	2,530,020	2,530,020
<b>2. LEGISLATIVE COUNCIL:</b>		
(a) Legislative Operations and Support Program .....		92,100
(For Operations of the Council including out-of-state travel by Council members and members of the Legislature authorized to attend Legislative conferences by joint resolution of the Legislature)		
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	92,100	
Total Legislative Council .....	92,100	92,100
<b>3. LEGISLATIVE FISCAL OFFICE:</b>		
(a) Legislative Operations and Support Program .....		334,000
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	334,000	
Total Legislative Fiscal Office ...	334,000	334,000
<b>4. LEGISLATIVE REFERENCE SERVICE:</b>		
(a) Legislative Operations and Support Program .....		523,401
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	523,401	
Total Legislative Reference Service .....	523,401	523,401
<b>5. LEGISLATURE:</b>		
(a) Senate Operations and Support Program .....		1,000,000
(b) House Operations and Support Program .....		1,500,000

## SOURCE OF FUNDS:

(1) State General Fund .....	2,500,000	
Total Legislature .....	2,500,000	2,500,000

In addition to the above appropriation there is hereby appropriated \$500,000 to the Legislature to be conditional upon the condition of the State General Fund and upon the approval of the Governor.

## B. JUDICIAL:

## 1. COURT OF CIVIL APPEALS:

(a) Court Operations Program .....	458,497
------------------------------------	---------

## SOURCE OF FUNDS:

(1) State General Fund .....	458,497	
Total Court of Civil Appeals .....	458,497	458,497

## 2. COURT OF CRIMINAL APPEALS:

(a) Court Operations Program .....	683,989
------------------------------------	---------

## SOURCE OF FUNDS:

(1) State General Fund .....	683,989	
Total Court of Criminal Appeals .....	683,989	683,989

## 3. DISTRICT ATTORNEYS:

(a) Court Operations Program .....	5,000,000
------------------------------------	-----------

The proposed spending plan included in the above total is as follows:

Salaries of District Attorneys .....	1,287,000
Salary of elected Deputy District Attorney of the Bessemer Division of the 10th Judicial Circuit .....	31,000
Salary of the appointed Assistant Deputy District Attorney of the Bessemer Division of the 10th Judicial Circuit .....	4,143
Salaries and expenses of Supernumerary District Attorneys .....	475,000
For use in the District Attorney's Office of the 1st Judicial Circuit .....	47,732
For use in the District Attorney's Office of the 2nd Judicial Circuit .....	52,308
For use in the District Attorney's Office of the 3rd Judicial Circuit .....	55,560
For use in the District Attorney's Office of the 4th Judicial Circuit .....	224,677
For use in the District Attorney's Office of the 5th Judicial Circuit .....	146,320
For use in the District Attorney's Office of the 6th Judicial Circuit .....	106,540

For use in the District Attorney's Office of the 7th Judicial Circuit.....	81,469
For use in the District Attorney's Office of the 8th Judicial Circuit.....	66,236
For use in the District Attorney's Office of the 9th Judicial Circuit.....	76,060
For use in the District Attorney's Office of the 10th Judicial Circuit....	164,800
For use in the District Attorney's Office of the 11th Judicial Circuit....	58,800
For use in the District Attorney's Office of the 12th Judicial Circuit....	58,526
For use in the District Attorney's Office of the 13th Judicial Circuit....	135,185
For use in the District Attorney's Office of the 14th Judicial Circuit....	65,050
For use in the District Attorney's Office of the 15th Judicial Circuit....	218,593
For use in the District Attorney's Office of the 16th Judicial Circuit....	67,000
For use in the District Attorney's Office of the 17th Judicial Circuit....	42,200
For use in the District Attorney's Office of the 18th Judicial Circuit....	78,303
For use in the District Attorney's Office of the 19th Judicial Circuit....	51,000
For use in the District Attorney's Office of the 20th Judicial Circuit....	84,300
For use in the District Attorney's Office of the 21st Judicial Circuit....	44,441
For use in the District Attorney's Office of the 22nd Judicial Circuit ...	60,000
For use in the District Attorney's Office of the 23rd Judicial Circuit ...	167,658
For use in the District Attorney's Office of the 24th Judicial Circuit....	65,713
For use in the District Attorney's Office of the 25th Judicial Circuit....	44,131

For use in the District Attorney's Office of the 26th Judicial Circuit....	106,000
For use in the District Attorney's Office of the 27th Judicial Circuit....	78,605
For use in the District Attorney's Office of the 28th Judicial Circuit....	50,000
For use in the District Attorney's Office of the 29th Judicial Circuit....	74,400
For use in the District Attorney's Office of the 30th Judicial Circuit....	82,200
For use in the District Attorney's Office of the 31st Judicial Circuit....	45,400
For use in the District Attorney's Office of the 32nd Judicial Circuit ...	46,375
For use in the District Attorney's Office of the 33rd Judicial Circuit ...	42,000
For use in the District Attorney's Office of the 34th Judicial Circuit....	31,175
For use in the District Attorney's Office of the 35th Judicial Circuit....	42,100
For use in the District Attorney's Office of the 36th Judicial Circuit....	51,900
For use in the District Attorney's Office of the 37th Judicial Circuit....	70,800
For use in the District Attorney's Office of the 38th Judicial Circuit....	66,120
For use in the District Attorney's Office of the 39th Judicial Circuit....	28,000
Appropriations of Salaries of Personnel Established by Statute are estimated.	
Travel Expense of District Attorneys .....	50,000
Telephone Service, Stationery, Stamps and necessary Office supplies for Office use of District Attorneys, Deputy District Attorneys or Assistants (Provided, however, that none of this appropriation shall be expended for books and	

equipment purchases) .. 75,000  
5,000,000

## SOURCE OF FUNDS:

(1) State General Fund .....	5,000,000	
Total District Attorneys .....	5,000,000	5,000,000

In addition to the above appropriation there is hereby appropriated \$1,700,000 to District Attorneys to be conditional upon the condition of the State General Fund and upon approval of the Governor.

## 4. JUDICIAL INQUIRY COMMISSION:

(a) Administrative Services Program .....		61,522
---	--	--------

## SOURCE OF FUNDS:

(1) State General Fund .....	61,522	
Total Judicial Inquiry Commission .....	61,522	61,522

## 5. JUDICIAL RETIREMENT SYSTEM:

(a) Retirement Systems Program ...		3,557,100
------------------------------------	--	-----------

## SOURCE OF FUNDS:

(1) State General Fund .....	3,557,100	
Total Judicial Retirement System .....	3,557,100	3,557,100

## 6. SUPREME COURT:

(a) Court Operations Program .....		1,858,949
------------------------------------	--	-----------

## SOURCE OF FUNDS:

(1) State General Fund .....	1,848,949	
(2) Federal, Local and Miscellaneous Funds .....		10,000
Total Supreme Court .....	1,848,949	10,000
		1,858,949

## 7. UNIFIED JUDICIAL SYSTEM:

(Administrative Office of Courts)

(a) Court Operations Program .....		28,489,478
------------------------------------	--	------------

(b) Administrative Services Program .....		1,953,356
---	--	-----------

## SOURCE OF FUNDS:

(1) State General Fund .....	30,442,834	
Total Unified Judicial System ...	30,442,834	30,442,834

## C. EXECUTIVE:

## 1. ACADEMY OF HONOR, ALABAMA:

(a) Historical Resources Management Program .....		1,300
---	--	-------

## SOURCE OF FUNDS:

(1) State General Fund as provided in Title 41, Chapter 11, Section 6, 1975 Code of Alabama .....	1,300	
Total Alabama Academy of Honor .....	1,300	1,300

## 2. ACCOUNTANCY, ALABAMA STATE BOARD OF PUBLIC:

(a) Professional and Occupational Licensing and Regulation Program .....		135,000
--	--	---------

## SOURCE OF FUNDS:



(1) Fund of the Alabama State Board of Public Accountancy, as provided in Title 34, Chapter 1, Section 22, 1975 Code of Alabama .....			135,000	
In addition to the amounts appropriated hereinabove to the Alabama State Board of Public Accountancy, there is hereby appropriated such an amount as may be necessary to pay the refund of any application for license which may have been rejected by the Board or withdrawn by request of applicant.				
Total Alabama State Board of Public Accountancy .....			135,000	135,000
3. ADJUSTMENT, BOARD OF:				
(a) Special Services Program .....				165,000
SOURCE OF FUNDS:				
(1) State General Fund for the General Fund Contribution to the total expenditure of \$350,000 pursuant to Title 41, Chapter 9, Section 73, 1975 Code of Alabama .....			15,000	
(2) State General Fund for expenditures as provided in Title 31, Chapter 3 and Title 36, Chapter 30, Article 1, 1975 Code of Alabama, Estimated .....			150,000	
Total Board of Adjustment .....			165,000	165,000
4. AERONAUTICS, DEPARTMENT OF:				
(a) Airport Development and Aeronautical Support Program .....				701,567
The appropriation to the Department of Aeronautics shall include a transfer to the State Personnel Department of \$196.				
SOURCE OF FUNDS:				
(1) Airport Development Fund, as provided by Title 4, Chapter 2, Section 42, 1975 Code of Alabama .....			701,567	
Total Department of Aeronautics .....			701,567	701,567
5. AGING, COMMISSION ON:				
(a) Planning and Advocacy for Elderly Program .....				12,713,590
The appropriation to the Commission on Aging shall include a transfer to the State Personnel Department of \$982.				
SOURCE OF FUNDS:				
(1) State General Fund Transfer. ....			785,000	
(2) Federal, Local and Miscellaneous Funds .....				11,928,590

Total Commission on Aging .....	785,000	11,928,590	12,713,590
6. AGRICULTURAL CENTER BOARD:			
(a) Agricultural Development Services Program .....			565,000
The appropriation to the Agricultural Center Board shall include a transfer to the State Personnel Department of \$392.			
SOURCE OF FUNDS:			
(1) State General Fund for expense and awarding of prizes for fairs as provided in Title 2, Chapter 7, Article 2, 1975 Code of Alabama .....	120,000		
(2) State General Fund Transfer .....	320,000		
(3) Livestock Coliseum Fund ....		125,000	
Total Agricultural Center Board .....	440,000	125,000	565,000
7. AGRICULTURAL AND INDUSTRIAL EXHIBIT COMMISSION, ALABAMA:			
(a) Agricultural Development Services Program .....			32,400
SOURCE OF FUNDS:			
(1) State General Fund .....	32,400		
Total Alabama Agricultural and Industrial Exhibit Commission ....	32,400		32,400
8. AGRICULTURE AND INDUSTRIES, DEPARTMENT OF:			
(a) Administrative Services Program .....			886,011
(b) Agricultural Inspection Services Program .....			8,553,145
(c) Laboratory Analysis and Disease Control Program .....			3,025,776
(d) Agricultural Development Services Program .....			512,505
The appropriation to the Department of Agriculture and Industries shall include a transfer to the State Personnel Department of \$17,725.			
SOURCE OF FUNDS:			
(1) State General Fund Transfer .....	4,978,900		
(2) Federal, Local and Miscellaneous Funds .....		2,321,122	
(3) Shipping Point Inspection Fund pursuant to Title 2, Chapter 9, Sections 20 and 21, Code of Alabama, 1975. All fees and charges collected by the Commissioner of Agriculture and Industries and deposited into said fund, and such appropriation to the Department of Agriculture and Industries			

shall include all fees and charges collected and deposited therein for Shipping Point Inspection, grading and classification services for agricultural products including services furnished for weighing and issuing weight certificates to be used for the sale of agricultural commodities .....

3,769,000

- (4) Agricultural Fund (Any surplus remaining in the Agricultural Fund at the end of the fiscal year in excess of \$150,000 shall be transferred to the State General Fund.) .....

1,908,415

Total Department of Agriculture and Industries .....

4,978,900

7,998,537

12,977,437

In addition to the above appropriation there is hereby appropriated \$650,000 to the Department of Agriculture and Industries to be conditional upon the condition of the State General fund and the approval of the Governor.

9. ALCOHOLIC BEVERAGE CONTROL BOARD, ALABAMA:

- (a) Alcoholic Beverage Management Program .....

22,496,718

- (b) Licensing, Regulation and Enforcement Program .....

6,934,822

- (c) Administrative Services Program

2,828,856

The appropriation to the Alabama Alcoholic Beverage Control Board shall include a transfer to the State Personnel Department of \$58,920.

SOURCE OF FUNDS:

- (1) ABC Stores Fund .....

32,260,396

In addition to the above appropriations herein made, there is hereby appropriated for each additional retail store put into operation during the fiscal year, an amount equal to the sum required to install and operate the last comparable retail store put into operation by said Board provided, however, that the sum appropriated for the operation of retail stores as provided herein shall be reduced in like manner for each retail store closed or withdrawn from operation during the same period. There is further appropriated to the Alabama

Alcoholic Beverage Control Board, after provision has been made for the other expenditures herein authorized such sums as are or may be necessary to purchase the alcoholic beverages which are essential to maintain adequate stocks and inventory for an economic and successful sales operation. In addition to the above appropriation, it is further provided that, in the event any county or municipality of the State shall, during the fiscal period covered by this appropriation by proper referendum, authorize the legal sale of malt and brewed beverages within such county or municipality there is further appropriated, in addition to the amount herein set out, an amount comparable to that expended during the prior fiscal year for beer and license tax supervision within counties or municipalities of similar size and population. Provided, further that the amount appropriated herein shall be reduced in like manner in the event any county or municipality wherein malt and brewed beverages are now authorized by law to be sold shall, during the fiscal period covered by this appropriation by proper referendum, declare unlawful the sale in such county or municipality of such malt or brewed beverages.

Total Alabama Alcoholic Beverage Control Board.....	32,260,396	32,260,396
10. ARCHITECTS, BOARD FOR REGISTRATION OF:		
(a) Professional and Occupational Licensing and Regulation Program.....		70,000
The appropriation to the Board for Registration of Architects shall include a transfer to the State Personnel Department of \$98.		
SOURCE OF FUNDS:		
(1) Fund of the Board for Registration of Architects, as provided in Title 34, Chapter 2, Section 23, Code of Alabama 1975 .....	70,000	
Total Board for Registration of Architects .....	70,000	70,000

## 11. ARCHIVES AND HISTORY:

(a) Historical Resources Management Program.....			760,617
SOURCE OF FUNDS:			
(1) State General Fund.....	748,617		
(2) Federal, Local and Miscellaneous Funds .....		12,000	
Total Archives & History .....	748,617	12,000	760,617

## 12. ATTORNEY GENERAL, OFFICE OF THE:

(a) Legal Advice and Legal Services Program.....			3,384,891
(b) Fair Marketing Practices Program.....			286,125
SOURCE OF FUNDS:			
(1) State General Fund.....	2,800,000		
(2) Transfer from Pensions and Security .....		310,000	
(3) Federal, Local and Miscellaneous Funds .....		561,016	
Total Office of the Attorney General.....	2,800,000	871,016	3,671,016

## 13. AUDITOR, STATE:

(a) Fiscal Management Program....			580,000
SOURCE OF FUNDS:			
(1) State General Fund.....	580,000		
Total State Auditor .....	580,000		580,000

## 14. BANKING DEPARTMENT, STATE:

(a) Charter, License, and Regulate Financial Institutions Program ..			1,699,149
(b) Housing Authority Administration Program .....			30,000
The appropriation to the State Banking Department shall include a transfer to the State Personnel Department of \$2,062.			
SOURCE OF FUNDS:			
(1) State General Fund Transfer.	310,850		
(2) Banking Assessment Fees as provided in Title 5, Chapter 1, Section 5, 1975 Code of Alabama .....		1,229,497	
(3) Bureau of Credit Unions as provided in Title 5, Chapter 2, Article 5, Divisions 1 and 2, 1975 Code of Alabama .....		161,750	
(4) Loan Examination Fund as provided in Title 5, Chapter 18, Sections 1-24, 1975 Code of Alabama .....		27,052	
Total State Banking Department	310,850	1,418,299	1,729,149

15. BAR ASSOCIATION, ALABAMA STATE:			
(a) Professional and Occupational Licensing and Regulation Program.....			
			496,676
SOURCE OF FUNDS:			
(1) State Bar Association Fund, as provided in Title 34, Chapter 3, Code of Alabama 1975 .....			
		496,676	
Total Alabama State Bar Association.....			
		496,676	496,676
16. BEAR CREEK DEVELOPMENT AUTHORITY:			
(a) Water Resource Development Program.....			
			209,119
SOURCE OF FUNDS:			
(1) State General Fund .....			
	26,900		
(2) Federal, Local and Miscellaneous Funds .....			
		182,219	
Total Bear Creek Development Authority .....			
	26,900	182,219	209,119
17. BRIERFIELD IRONWORKS PARK:			
(a) Outdoor Recreation Sites and Services Program .....			
			87,760
SOURCE OF FUNDS:			
(1) State General Fund .....			
	20,000		
(2) Federal, Local and Miscellaneous Funds .....			
		67,760	
Total Brierfield Ironworks Park ..			
	20,000	67,760	87,760
18. BUILDING COMMISSION:			
(a) Special Services Program .....			
			545,992
The appropriation to the Building Commission shall include a transfer to the State Personnel Department of \$98.			
SOURCE OF FUNDS:			
(1) State General Fund .....			
	138,220		
(2) Federal, Local and Miscellaneous Funds .....			
		407,772	
Total Building Commission .....			
	138,220	407,772	545,992
19. CAPITOL RENOVATION—ALABAMA HISTORICAL COMMISSION:			
(a) Historical Resources Management Program.....			
			2,000,000
SOURCE OF FUNDS:			
(1) State General Fund .....			
	2,000,000		
Total Capitol Renovation—Alabama Historical Commission ....			
	2,000,000		2,000,000
In addition to the above appropriation there is hereby appropriated \$1,500,000 to Capitol Renovation—Alabama Historical Commission to be conditional upon the condition of			

the State General Fund and upon approval of the Governor.

20. CHIROPRACTIC EXAMINERS, ALABAMA STATE BOARD OF:

- (a) Professional and Occupational Licensing and Regulation Program..... 25,000

SOURCE OF FUNDS:

- (1) Alabama State Board of Chiropractic Examiner's Fund as provided in Title 34, Chapter 24, Article 4, Divisions 1, 2 and 3, 1975 Code of Alabama..... 25,000

Total Alabama State Board of Chiropractic Examiners..... 25,000 25,000

21. CIVIL DEFENSE, DEPARTMENT OF:

- (a) Readiness and Recovery Program 946,152  
The appropriation to the Department of Civil Defense shall include a transfer to the State Personnel Department of \$1,423.

SOURCE OF FUNDS:

- (1) State General Fund..... 461,400

- (2) Federal, Local and Miscellaneous Funds ..... 484,752

Total Department of Civil Defense 461,400 484,752 946,152

22. COASTAL AREA BOARD, ALABAMA:

- (a) Coastal Area Management Program..... 875,000

The appropriation to the Alabama Coastal Area Board shall include a transfer to the State Personnel Department of \$245.

SOURCE OF FUNDS:

- (1) State General Fund..... 50,000

- (2) Federal, Local and Miscellaneous ..... 825,000

Total Alabama Coastal Area Board ..... 50,000 825,000 875,000

23. CONSERVATION AND NATURAL RESOURCES, DEPARTMENT OF:

- (a) Wildlife and Game Fish Program 10,903,145

- (b) State Land Management Program 226,302

- (c) Outdoor Recreation Sites and Services Program ..... 12,874,553

- (d) Administrative Services Program 3,039,187

- (e) Land Survey Program ..... 225,382

The appropriation to the Department of Conservation and Natural Resources shall include a transfer to the State Personnel Department of \$27,005.

## SOURCE OF FUNDS:

(1) Game and Fish Fund .....	9,475,445
(2) State Lands Fund .....	226,302

The funds hereinabove appropriated from the State Lands Fund includes funds for analyzing, cataloging and monitoring mineral reserves and the development thereof on State lands including water and offshore areas.

(3) Marine Resources Fund .....	1,121,500
---------------------------------	-----------

In addition to the monies hereinabove appropriated from the Marine Resources Fund, all monies derived from contracts, grants or other agreements concerning or relating to marine biological research performed or accomplished at the Marine Resources Division Laboratory at Dauphin Island is hereby appropriated and may be expended by the Commissioner of Conservation on such Marine Resources Division Programs or projects which he deems appropriate.

(4) Marine Police Fund .....	1,724,000
(5) Land Surveyors Fund .....	225,382
(6) State Parks Fund .....	8,550,553
(7) Administrative Funds .....	3,039,187

The funds hereinabove appropriated shall be payable as provided in Title 9, Chapter 2, Section 1, Code of Alabama 1975.

(8) State General Fund .....	2,806,200
------------------------------	-----------

(9) State General Fund—Transfer to Game and Fish Fund for Capital Improvements—(Bibb and Escambia County Lakes)	100,000
---	---------

Total Department of Conservation and Natural Resources .....

2,906,200 24,362,369 27,268,569

24. CONTRACTORS STATE LICENSING BOARD FOR GENERAL:

- (a) Professional and Occupational Licensing and Regulation Program .....

164,850

The appropriation to the State Licensing Board for General Contractors shall include a transfer to the State Personnel Department of \$245.

## SOURCE OF FUNDS:

(1) State Licensing Board for General Contractors Fund ... Pursuant to Title 34, Chapter 8, Code of Alabama 1975. In addition	164,850
---	---------



to the amounts appropriated hereinabove to the State Licensing Board for General Contractors there is hereby appropriated such an amount as may be necessary to pay the refund of any application for license which may have been rejected by the Board or application withdrawn by request of applicant.

Total State Licensing Board for General Contractors .....

---

164,850	164,850
---------	---------

---

25. CORRECTIONS, BOARD OF:

- |  |            |
|--|------------|
| (a) Administrative Services and Logistical Support Program ..... | 2,982,507  |
| (b) Institutional Services Corrections Program .....             | 22,576,774 |
| (c) Correctional Industries Program.                             | 3,710,702  |

The appropriation to the Board of Corrections shall include a transfer to the State Personnel Department of \$59,214.

SOURCE OF FUNDS:

- |  |            |           |
|--|------------|-----------|
| (1) State General Fund - Transfer                | 24,500,000 |           |
| (2) Federal, Local and Miscellaneous Funds ..... |            | 625,000   |
| (3) Board of Corrections Fund ...                |            | 4,144,983 |

The Commissioner of Corrections is authorized to utilize funds herein appropriated as matching contributions, where required and appropriated, to generate additional funds which would effectively increase the appropriations for the Board of Corrections. Any such grant funds so generated and in direct support of the Board of Corrections operations are also hereby appropriated.

Total Board of Corrections .....	24,500,000	4,769,983	29,269,983
----------------------------------	------------	-----------	------------

---

In addition to the above appropriation there is hereby appropriated \$30,000,000 to the Board of Corrections to be conditional upon the condition of the State General Fund and upon the approval of the Governor.

26. COSMETOLOGY, ALABAMA BOARD OF:

- |  |         |
|--|---------|
| (a) Professional and Occupational Licensing and Regulation Program ..... | 315,000 |
|--|---------|

The appropriation to the Alabama Board of Cosmetology shall include a transfer to the State Personnel Department of \$491.

SOURCE OF FUNDS:

(1) Alabama Board of Cosmetology Fund as provided in Title 34, Chapter 7, 1975 Code of Alabama				315,000		
Total Alabama Board of Cosmetology				315,000	315,000	
27. CRIMINAL JUSTICE INFORMATION SYSTEM, ALABAMA:						
(a) Criminal Justice Information Services Program .....					2,268,004	
The appropriation to the Alabama Criminal Justice Information System shall include a transfer to the State Personnel Department of \$2,602.						
SOURCE OF FUNDS:						
(1) State General Fund - Transfer				1,900,000		
(2) Federal, Local and Miscellaneous Funds .....					368,004	
Total Alabama Criminal Justice Information System .....				1,900,000	368,004	2,268,004
In addition to the above appropriation there is hereby appropriated \$239,000 to the Criminal Justice Information System to be conditional upon the condition of the State General Fund and upon the approval of the Governor.						
28. DAIRY COMMISSION, ALABAMA:						
(a) Regulatory Services Program ...					455,000	
The appropriation to the Alabama Dairy Commission shall include a transfer to the State Personnel Department of \$540.						
SOURCE OF FUNDS:						
(1) Alabama Dairy Commission Fund as provided in Title 2, Chapter 13, Code of Alabama 1975 .....					455,000	
Total Alabama Dairy Commission ...					455,000	455,000
29. DEVELOPMENT OFFICE, ALABAMA:						
(a) Industrial Development Program					2,537,000	
(b) Bureau of Publicity and Information—Tourism and Travel Promotion Program .....					2,402,873	
(c) Administrative Services Program—Office of Minority Business .....					145,000	
(d) Alabama Film Commission - Promotional Development Program .....					220,000	
The appropriation to the Alabama Development Office shall include a transfer to the State Personnel Department of \$3,093.						
SOURCE OF FUNDS:						
(1) State General Fund - Transfer Alabama Development Office ....				2,467,000		
(2) State General Fund - Transfer Publicity and Information .....				500,000		

(3) State General Fund Transfer - Office of Minority Business .....				75,000		
(4) State General Fund - Alabama Film Commission .....				220,000		
(5) Lodgings Tax (1c) - Receipts collected under the provisions of Title 40, Chapter 26, 1975 Code of Alabama for the Bureau of Publicity and Information .....					1,902,873	
(6) Federal, Local and Miscellaneous Funds .....					140,000	
Total Alabama Development Office .				3,262,000	2,042,873	5,304,873
30. ENGINEERS AND LAND SURVEYORS, STATE BOARD OF REGISTRATION FOR PROFESSIONAL:						
(a) Professional and Occupational Licensing and Regulation Program.....						238,196
The appropriation to the State Board of Registration for Professional Engineers and Land Surveyors shall include a transfer to the State Personnel Department of \$245.						
SOURCE OF FUNDS:						
(1) Professional Engineers' Fund as provided in Title 34, Chapter 11, Code of Alabama 1975, as amended and Act No. 1049, 1975 Regular Session .....					238,196	
Total State Board of Registration for Professional Engineers and Land Surveyors .....					238,196	238,196
31. ETHICS COMMISSION, ALABAMA:						
(a) Regulation of Public Officials and Employees Program .....						175,000
SOURCE OF FUNDS:						
(1) State General Fund .....				175,000		
Total Alabama Ethics Commission .....				175,000		175,000
32. FARMERS' MARKET AUTHORITY:						
(a) Agricultural Development Services Program .....						658,000
SOURCE OF FUNDS:						
(1) State General Fund - Transfer For Administration .....				78,000		
(2) State General Fund - Transfer for Capital Outlay .....				500,000		
(3) Farmers' Market Authority Fund - Revenue and Capital Outlay Account .....					80,000	
Total Farmers' Market Authority .....				578,000	80,000	658,000
33. FINANCE, DEPARTMENT OF:						
(a) Fiscal Management Program ....						1,949,941

(b) Administrative Support Services Program.....			4,258,889
(c) Administrative Support Services Program-Repair, renovate, and clean state buildings .....			500,000
(d) Administration of Private Colleges and Universities Facilities Authority .....			6,000
SOURCE OF FUNDS:			
(1) State General Fund .....	4,814,896		
(2) State Agency Collections - Maintenance Revolving Fund .....		1,899,934	
Total Department of Finance .....	4,814,896	1,899,934	6,714,830
34. FINANCE-TELEPHONE NETWORK FUND:			
(a) Administrative Support Services Program.....			4,028,907
SOURCE OF FUNDS:			
(1) Telephone Network Fund ....		4,028,907	
Total Finance-Telephone Network Fund .....		4,028,907	4,028,907
35. FORESTERS, ALABAMA STATE BOARD OF REGISTRATION FOR:			
(a) Professional and Occupational Licensing and Regulation Program.....			17,900
SOURCE OF FUNDS:			
(1) Professional Foresters' Fund .....		17,900	
Total Alabama State Board of Registration for Foresters .....		17,900	17,900
36. FORESTRY COMMISSION, ALABAMA:			
(a) Forest Resource Protection Program.....			7,316,266
(b) Forest Resource Management and Development Program .....			2,144,977
(c) Forestry Information and Education Program .....			282,245
(d) Administrative Services Program			1,276,585
The appropriation to the Alabama Forestry Commission shall include a transfer to the State Personnel Department of \$19,983.			
SOURCE OF FUNDS:			
(1) State General Fund - Transfer	5,568,659		
(2) Federal and Local Funds ....		2,549,398	
(3) Forestry Commission Fund ..		2,902,016	
Of the above appropriation \$100,000 shall be used for rural and community fire protection.			
Total Alabama Forestry Commission .....	5,568,659	5,451,414	11,020,073

## 37. FORT MORGAN COMMISSION:

(a) Historical Resources Management Program.....			109,433
SOURCE OF FUNDS:			
(1) State General Fund.....	99,400		
(2) Federal, Local and Miscellaneous Funds .....		10,033	
Total Fort Morgan Commission ..	99,400	10,033	109,433

## 38. FUNERAL SERVICE, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program.....			81,900
SOURCE OF FUNDS:			
(1) Alabama Funeral Directors and Embalmers Fund as provided in Title 34, Chapter 13, 1975 Code of Alabama .....		81,900	
Total Alabama Board of Funeral Services .....		81,900	81,900

## 38A. FOREIGN TRADE RELATIONS COMMISSION:

(a) Special Services Program .....			50,000
SOURCE OF FUNDS:			
(1) State General Fund.....	50,000		
Total Foreign Trade Relations Commission.....	50,000		50,000

## 39. GEOLOGICAL SURVEY:

(a) Discovery and Development of Mineral, Energy and Water Resources, Geologic Research and Topographic Mapping Program .			1,596,049
The appropriation to the Geological Survey shall include a transfer to the State Personnel Department of \$3,829.			
SOURCE OF FUNDS:			
(1) State General Fund.....	1,042,032		
(2) Federal, Local and Miscellaneous Funds .....		554,017	
Total Geological Survey .....	1,042,032	554,017	1,596,049

## 40. GORGAS MEMORIAL BOARD:

(a) Historical Resources Management Program.....			10,700
SOURCE OF FUNDS:			
(1) State General Fund as provided in Title 41, Chapter 9, Section 220, 1975 Code of Alabama and an additional amount .....	10,000		
(2) Federal, Local and Miscellaneous Funds .....		700	
Total Gorgas Memorial Board ...	10,000	700	10,700

41. GOVERNOR'S OFFICE:		
(a) Executive Direction Program ...		977,400
SOURCE OF FUNDS:		
(1) State General Fund .....	977,400	
Total Governor's Office .....	977,400	977,400
42. GOVERNOR'S CONTINGENCY FUND:		
(a) Executive Direction Program ...		295,480
SOURCE OF FUNDS:		
(1) State General Fund .....	295,480	
Total Governor's Contingency Fund .....	295,480	295,480
43. GOVERNOR'S MANSION AND COASTAL MANSION:		
(a) Executive Direction Program ...		150,000
SOURCE OF FUNDS:		
(1) State General Fund .....	150,000	
Total Governor's Mansion and Coastal Mansion .....	150,000	150,000
44. HEALING ARTS, STATE LICENSING BOARD FOR THE:		
(a) Professional and Occupational Licensing and Regulation Program .....		132,000
The appropriation to the State Licensing Board for the Healing Arts shall include a transfer to the Personnel Department of \$98.		
SOURCE OF FUNDS:		
(1) State Licensing Board for the Healing Arts Fund .....	132,000	
Total State Licensing Board for the Healing Arts .....	132,000	132,000
45. HEALTH, DEPARTMENT OF PUBLIC:		
(a) Administrative Services Program		3,468,956
(b) Health Support Services Program		39,398,533
(c) Personal Health Improvement Program .....		29,535,056
(d) Environmental Health Improvement Program .....		6,283,138
(e) Special Services Program .....		1,227,009
(f) Health Planning, Development and Regulation Program .....		5,069,881
The appropriation to the Department of Public Health shall include a transfer to the State Personnel Department of \$100,605.		
SOURCE OF FUNDS:		
(1) State General Fund .....	14,632,000	
(2) Cigarette Tax - 1¢ as provided in Title 40, Chapter 25, Sections 2 and 23, 1975 Code of Alabama .....		1,400,001
(3) Cigarette Tax - 2¢ as provided in		

Title 40, Chapter 25, Sections 2 and 23, 1975 Code of Alabama .....			
		2,150,000	
(4) Vital Statistics Fund .....		660,000	
(5) Hospital Licensing Fund .....		85,000	
(6) Emergency Medical Services Fund as provided in Title 22, Chapter 18, Sections 1 through 7, 1975 Code of Alabama .....		30,000	
(7) Local Health Departments .....	25,990,952		
(8) Water Improvement Commission Fines .....		300,000	
(9) Miscellaneous Revenues .....		3,126,835	
(10) Federal Funds .....		36,607,785	
Total Department of Public Health ..	14,632,000	70,350,573	84,982,573
46. HEALTH PLANNING AND DEVELOPMENT AGENCY, STATE:			
(a) Health Planning, Development and Regulation Program .....			950,026
SOURCE OF FUNDS:			
(1) State General Fund .....	261,000		
(2) Federal, Local and Miscellaneous Funds .....		689,026	
Total State Health Planning and Development Agency .....	261,000	689,026	950,026
47. HEARING AID DEALERS, ALABAMA BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			15,400
SOURCE OF FUNDS:			
(1) State Board of Health - Hearing Aid Fund as provided in Title 34, Chapter 14, Articles 1 and 2, 1975 Code of Alabama .....		15,400	
Total Alabama Board of Hearing Aid Dealers .....		15,400	15,400
48. HIGHWAY DEPARTMENT:			
(a) Central Administration Program .....		6,825,251	
(b) Division and District Supervision-State Program .....		12,165,797	
(c) Operations and Support Services Program .....		5,475,948	
(d) Maintenance Program .....		60,000,000	
(e) Non-Programmatic Expenditures Proposed Spending Plan for the above (e) includes the following:		43,830,499	
Debt Service .....	38,595,075		
Equipment-Automotive .....	5,000,000		
Equipment-Other than Automotive .....	235,424		
(f) Construction-Federal Aid Program .....			248,429,681
Proposed Spending Plan for the above (f) includes the following:			
Federal Aid Matching .....	39,202,000		

Non-participating Work on Federal Aid Projects ... 1,000,000 Advance Construction Bonds ..... 30,726,000 Federal Aid ..... 177,501,681	
(g) Construction-State Program .....	94,640,398
(h) Operations-Land & Buildings .....	2,305,500
The appropriation to the Highway Department shall include a transfer to the State Personnel Department of \$232,144.	

SOURCE OF FUNDS:

(1) State General Fund .....	75,000
(2) Public Road and Bridge Fund	265,370,393
(3) Federal Aid .....	177,501,681
(4) Bond Proceeds .....	30,726,000

There is hereby appropriated, for payment of the principal of and the interest on all bonds heretofore or hereafter issued for public highways and bridge purposes, or either, by the State of Alabama, Alabama Highway Authority, or Alabama Highway Finance Corporation, a total of \$38,595,075 or so much as may be necessary for payment of said principal and interest at their respective maturities, of the revenues pledged for such payment.

The Highway Director with the consent of the Governor and the Budget Office shall have the authority to transfer any appropriation or any portion thereof between and among subsections (a), (b), (c), (d), (e), (f), (g), (h) of this section whenever such transfer shall be necessary to assure maximum utilization of Federal Matching Funds which shall become available.

In the event that there shall not be sufficient funds available for payment of all appropriations hereinabove made, the following provisions shall be applicable: In the event of such insufficiency in respect of the said revenues accruing to the State Highway Department:

- (1) the appropriations made for Debt Service in section (e) hereof shall be paid in full—
- (2) the appropriations from the revenues accruing to the State Highway Department that are



herein made for the purpose referred to in Sections (a), (b), (c), (d), (e), (f), (g), (h) except for Debt Service, hereof shall be allocated among the purposes referred to in said Sections in such order and with such priorities as the State Highway Director shall from time to time direct.

The funds appropriated in section (f) hereof, for the matching Federal funds, shall not revert at the end of the fiscal year for which such appropriations are made, but shall remain available for the purpose for which such appropriation was made.

In addition to all appropriations hereinabove made there is hereby appropriated to the State Highway Department all Federal Funds accruing thereto to be expended only for the purpose for which such funds are made available. Not later than ninety (90) days following the end of each fiscal year for which appropriations are made herein, the State Highway Director shall transmit to the Governor, Lieutenant Governor, and each member of the Legislature, a report stating the portions of each appropriation made herein that have been spent in each county in the State during the fiscal year then ended.

Total Highway Department .....	75,000	473,598,074	473,673,074
49. HIGHWAY AND TRAFFIC SAFETY, OFFICE OF:			
(a) Traffic Control and Accident Prevention Program .....			3,551,800
The appropriation to the Office of Highway and Traffic Safety shall include a transfer to the State Personnel Department of \$491.			
SOURCE OF FUNDS:			
(1) State General Fund - Transfer	83,600		
(2) Federal Funds .....		3,468,200	
Total Office of Highway and Traffic Safety .....	83,600	3,468,200	3,551,800
50. HISTORIC CHATTAHOOCHEE COMMISSION:			
(a) Historical Resources Management Program .....			66,500
SOURCE OF FUNDS:			

(1) State General Fund - Transfer		66,500		
Total Historic Chattahoochee Commission .....		66,500		66,500
51. HISTORICAL COMMISSION, ALABAMA:				
(a) Historical Resources Management Program .....				1,868,218
The appropriation to the Alabama Historical Commission shall include a transfer to the State Personnel Department of \$736.				
SOURCE OF FUNDS:				
(1) State General Fund - Transfer		274,400		
(2) Federal, Local and Miscellaneous Funds .....			1,593,818	
Total Alabama Historical Commission .....		274,400	1,593,818	1,868,218
52. INDUSTRIAL RELATIONS, DEPARTMENT OF:				
(a) Skills Enhancement and Employment Opportunities Program ....				99,159,393
(b) Unemployment Compensation Program .....				180,333,617
(c) Administrative Services Program				6,340,871
(d) Industrial Safety and Accident Prevention Program .....				4,806,561
(e) Employment and Social Opportunities Program .....				325,810
The appropriation to the Department of Industrial Relations shall include a transfer to the State Personnel Department of \$70,212.				
SOURCE OF FUNDS:				
(1) State General Fund .....		652,500		
(2) Federal, Local and Miscellaneous Funds .....			290,313,752	
Total Department of Industrial Relations .....		652,500	290,313,752	290,966,252
53. INSURANCE BOARD, STATE EMPLOYEES':				
(a) Administrative Support Services Program .....				72,434
SOURCE OF FUNDS:				
(1) State General Fund .....		72,434		
Total State Employees' Insurance Board .....		72,434		72,434
54. INSURANCE, DEPARTMENT OF:				
(a) Regulatory Services Program ...				1,867,597
The appropriation to the Department of Insurance shall include a transfer to the State Personnel Department of \$2,749.				
SOURCE OF FUNDS:				
(1) State General Fund .....		906,469		

(2) Examination Revolving Fund as provided in Title 27, Chapter 2, Section 25, Code of Alabama 1975 .....				820,253	
(3) Fire Marshals' Fund as provided in Title 24, Chapter 5, Article 1, 1975 Code of Alabama. Any balance in excess of \$50,000 at the end of the fiscal year shall be transferred to the State General Fund .....				140,875	
Total Department of Insurance ..		906,469	961,128	1,867,597	
55. LABOR, DEPARTMENT OF:					
(a) Regulatory Services Program ...				249,670	
SOURCE OF FUNDS:					
(1) State General Fund .....				212,164	
(2) Federal, Local and Miscellaneous Funds .....				37,506	
Total Department of Labor .....		212,164	37,506	249,670	
56. LAGRANGE HISTORICAL SITE—ALABAMA HISTORICAL COMMISSION:					
(a) Historical Resources Management Program .....				2,140	
SOURCE OF FUNDS:					
(1) State General Fund - as provided in Title 41, Chapter 9, Section 270, 1975 Code of Alabama .....				2,140	
Total LaGrange Historical Site - Alabama Historical Commission ..		2,140		2,140	
57. LANDSCAPE ARCHITECTS, BOARD OF EXAMINERS OF:					
(a) Professional and Occupational Licensing and Regulation Program .....				4,650	
SOURCE OF FUNDS:					
(1) Landscape Architects Fund ..				4,650	
Total Board of Examiners of Landscape Architects .....			4,650	4,650	
58. LAW ENFORCEMENT PLANNING AGENCY, ALABAMA:					
(a) Law Enforcement Planning and Development Program .....				8,644,885	
The appropriation to the Alabama Law Enforcement Planning Agency shall include a transfer to the State Personnel Department of \$2,602.					
SOURCE OF FUNDS:					
(1) State General Fund - Transfer for Matching Federal Funds ..				596,780	
(2) Federal, Local and Miscellaneous Funds .....				8,048,105	

Total Alabama Law Enforcement Planning Agency.....				596,780	8,048,105	8,644,885
<b>59. LIQUEFIED PETROLEUM GAS BOARD:</b>						
(a) Regulatory Services Program ...						124,176
The appropriation to the Liquefied Petroleum Gas Board shall include a transfer to the State Personnel Department of \$147.						
SOURCE OF FUNDS:						
(1) L. P. Gas Board Fund .....				124,176		
Total Liquefied Petroleum Gas Board .....				124,176	124,176	
<b>60. MEDICAL SERVICES ADMINISTRATION:</b>						
(a) Medical Assistance through Medicaid Program .....						227,678,668
The appropriation to the Medical Services Administration shall include a transfer to the State Personnel Department of \$9,770.						
SOURCE OF FUNDS:						
(1) State General Fund - Transfer				66,000,000		
(2) Federal, Local and Miscellaneous Funds .....				161,678,668		
Total Medical Services Administration .....				66,000,000	161,678,668	227,678,668
In addition to the above appropriation there is hereby appropriated \$30,000,000 to Medical Services Administration to be conditional upon the condition of the State General Fund and upon the approval of the Governor.						
<b>61. MENTAL HEALTH, DEPARTMENT OF:</b>						
(a) Institutional Treatment and Care-Mental Illness Program .....						45,300,542
(b) Institutional Treatment and Care-Mental Retardation Program ....						38,487,299
(c) Institutional Treatment and Care-Criminally Insane Program .....						348,297
(d) Non-Institutional Treatment and Care Program .....						22,253,454
(Of this amount, \$11,010,567 shall be used for Community Programs.)						
(e) Administrative Services Program						3,519,368
The appropriation to the Department of Mental Health shall include a transfer to the State Personnel Department of \$248,289						
SOURCE OF FUNDS:						
(1) Special Mental Health Fund - For Operations and Maintenance of the State Mental						

Health Department including the purchase of drugs to medically and indigent mental patients not hospitalized at time of receiving drugs at the Alabama State Hospitals .....	68,195,817	
(2) Special Mental Health Fund - Community Programs .....	11,010,567	
(3) Transfer from ABC Profits ..	1,000,000	
(4) Cigarette Tax - 1¢ .....	925,455	
(5) Cigarette Tax - 2¢ .....	4,909,922	
(6) Federal, Local and Miscellaneous Funds .....	23,867,199	
Total Department of Mental Health .....	109,908,960	109,908,960

In addition to the above appropriation there is hereby appropriated \$36,400,000 to the Mental Health Department to be conditional upon the condition of the State General Fund and upon the approval of the Governor.

#### 62. A—MILITARY DEPARTMENT:

(a) Military Operations Program....	3,583,482	
(b) Capital Outlay .....	595,132	
SOURCE OF FUNDS:		
(1) State General Fund - Transfer Capital Outlay for the Armories at Atmore, Fayette, Huntsville, Jackson, Montgomery, and Sub-Surface Soil Investigation .....	525,600	
(2) State General Fund - Transfer for Architect and Engineering Services and Specifications for the Armories at Atmore, Birmingham, Goodwater, Guin and Monroeville .....	69,532	
(3) State General Fund - Operations .....	907,176	
(4) State General Fund - Quarterly Allowances Headquarters - Regular Allowance Units to be used solely for operating expenses; provided, that no more than \$4,500 shall be allotted in any fiscal year for the Headquarters Alabama National Guard .....	749,000	
(5) State General Fund - Active Military Service .....	113,610	
(6) State General Fund - Transfer to Armory Commission .....	1,813,696	
Total Military Department .....	4,178,614	4,178,614

## 62. B—ARMORY COMMISSION OF ALABAMA:

(a) Military Operations Program.... 2,631,374

## SOURCE OF FUNDS:

(1) Transfer from Military Department..... 1,813,696

(2) Federal, Local and Miscellaneous Funds ..... 817,678

The funds hereinabove appropriated to the Armory Commission shall be payable from the funds in the State Treasury to the credit of the Armory Commission and the appropriation hereinabove made includes the appropriation made for the care, maintenance, and construction of armories. Provided, however, that the last Federal Government service contract reimbursement shall not revert to the State General Fund. Any surplus remaining in the Armory Commission Fund at the end of the fiscal year in excess of \$50,000 shall be transferred to the State General Fund.

Total Armory Commission of Alabama.....	2,631,374	2,631,374
---	-----------	-----------

## 63. NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS OF:

(a) Professional and Occupational Licensing and Regulation Program..... 11,000

## SOURCE OF FUNDS:

(1) Board of Examiners of Nursing Home Administrators Fund ..... 11,000

Total Board of Examiners of Nursing Home Administrators ..	11,000	11,000
--	--------	--------

## 64. OIL AND GAS BOARD:

(a) Management and Regulation of Oil and Gas Exploration and Development Program ..... 836,094

## SOURCE OF FUNDS:

(1) State General Fund..... 836,094

Total Oil and Gas Board.....	836,094	836,094
------------------------------	---------	---------

## 65. PARDONS AND PAROLE, BOARD OF:

(a) Administration of Pardons and Paroles Program..... 4,057,946

The appropriation to the Board of Pardons and Parole shall include a transfer to the State Personnel Department of \$9,869.

## SOURCE OF FUNDS:

(1) State General Fund .....	2,526,921		
(2) Probationers Upkeep Fund ..		1,098,613	
(3) Federal, Local and Miscellaneous Funds .....		432,412	
Total Board of Pardons and Parole	2,526,921	1,531,025	4,057,946
<hr/>			
66. PEACE OFFICERS' ANNUITY AND BENEFIT FUND, ALABAMA:			
(a) Retirement Systems Program ...			170,715
SOURCE OF FUNDS:			
(1) Peace Officers' Annuity and Benefit Fund as provided in Title 36, Chapter 21, Article 4, 1975 Code of Alabama .....		170,715	
Total Alabama Peace Officers' Annuity and Benefit Fund .....		170,715	170,715
<hr/>			
67. PENSIONS:			
(a) Social Services Program - For Confederate Veterans and their widows: Such an amount as may be necessary to pay all the pensions allowed to Confederate soldiers and sailors and their widows.			
SOURCE OF FUNDS:			
(1) Proceeds from the levy of the one mill tax as provided by Title 40, Chapter 8, Section 361, 1975 Code of Alabama.			
68. PENSIONS AND SECURITY:			
(a) Financial Assistance Program ...		115,680,637	
(b) Social Services Program .....		77,418,000	
(c) Food Assistance Program .....		21,639,606	
(d) Child Support Enforcement Program .....		7,246,008	
(e) Alabama Human Resources Board		100,000	
The appropriation to Pensions and Security shall include a transfer to the State Personnel Department of \$189,771.			
SOURCE OF FUNDS:			
(1) Federal, Local and Miscellaneous Funds .....		149,938,627	
(2) Liquor License Tax .....		1,572,000	
(3) ABC Profits .....		2,135,431	
(4) Whiskey Tax .....		20,527,370	
(5) State General Fund .....	5,000,000		
(6) Beer Tax .....		7,213,360	
(7) Pension Residue .....		6,845,000	
(8) Sales Tax .....		1,322,000	
(9) Franchise Tax .....		9,476,000	
(10) Contracts, Service Fees .....		364,144	
(11) Child Support Collections ...		1,574,119	
(12) Sales Tax for Food Stamps ..		10,200,000	
(13) Cigarette Tax .....		4,525,000	
(14) Contractor's Gross Receipts Tax .....		1,387,000	

(15) Pension Fund .....	4,200
Total Pensions and Security .....	<u>5,000,000 217,084,251 222,084,251</u>

In addition to the above appropriation there is hereby appropriated \$6,000,000 to the Department of Pensions and Security to be conditional upon the condition of the State General Fund and upon the approval of the Governor.

69. PERSONNEL DEPARTMENT,  
STATE:

(a) Administrative Support Program 1,648,528  
SOURCE OF FUNDS:

(1) State General Fund - Transfer	128,512
(2) Federal, Local and Miscellaneous Funds .....	259,000
(3) Transfer from Department of Aeronautics .....	196
(4) Transfer from Commission on Aging .....	982
(5) Transfer from Agriculture and Industries .....	17,725
(6) Transfer from Agricultural Center Board .....	392
(7) Transfer from Alcoholic Beverage Control Board ....	58,920
(8) Transfer from Board of Registration of Architects...	98
(9) Transfer from State Banking Department .....	2,062
(10) Transfer from Finance - Alabama Building Authority .....	589
(11) Transfer from Finance — Alabama Building Finance Authority .....	491
(12) Transfer from Building Commission .....	98
(13) Transfer from Civil Defense Department .....	1,423
(14) Transfer from Coastal Area Board .....	245
(15) Transfer from Conservation Department .....	27,005
(16) Transfer from State Licensing Board for General Contractors .....	245
(17) Transfer from Board of Corrections .....	59,214
(18) Transfer from Board of Cosmetology .....	491
(19) Transfer from Criminal Justice Information Center..	2,602
(20) Transfer from Alabama Dairy Commission .....	540



(21) Transfer from Alabama Development Office.....	3,093
(22) Transfer from State Docks ..	4,812
(23) Transfer from Education ...	67,905
(24) Transfer from Education Study Commission.....	98
(25) Transfer from Board of Registration for Professional Engineers and Land Surveyors ..	245
(26) Transfer from Firefighters Personnel Standards and Education Commission.....	196
(27) Transfer from Forestry Commission .....	19,983
(28) Transfer from Geological Survey.....	3,829
(29) Transfer from State Licensing Board for the Healing Arts	98
(30) Transfer from Health Department .....	100,605
(31) Transfer from Highway Department .....	232,144
(32) Transfer from Highway and Traffic Safety .....	491
(33) Transfer from Alabama Historical Commission .....	736
(34) Transfer from Industrial Relations.....	70,212
(35) Transfer from Insurance Department .....	2,749
(36) Transfer from Law Enforcement Planning Agency .....	2,602
(37) Transfer from Liquefied Petroleum Gas Board .....	147
(38) Transfer from Medical Services Administration .....	9,770
(39) Transfer from Department of Mental Health.....	284,289
(40) Transfer from Board of Nursing.....	540
(41) Transfer from Pardons and Paroles .....	9,869
(42) Transfer from Peace Officers Standards and Training Commission .....	98
(43) Transfer from Pensions and Security .....	189,771
(44) Transfer from Physical Fitness Commission .....	196
(45) Transfer from Board of Physical Therapy.....	49
(46) Transfer from Office of State Planning and Federal Programs .....	2,062
(47) Transfer from Public Library Service .....	2,700

(48) Transfer from Public Service Commission .....	3,829		
(49) Transfer from Real Estate Commission .....	932		
(50) Transfer from Retirement Systems .....	4,320		
(51) Transfer from Department of Revenue .....	45,270		
(52) Transfer from Board of Social Work Examiners .....	49		
(53) Transfer from Surface Mining Reclamation Commission .....	982		
(54) Transfer from Department of Toxicology and Criminal Investigation .....	3,240		
(55) Transfer from Department of Youth Services .....	19,787		
Total State Personnel Department	128,512	1,520,016	1,648,528
70. PHYSICAL THERAPY, BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			19,800
The appropriation to the Board of Physical Therapy shall include a transfer to the State Personnel Department of \$49.			
SOURCE OF FUNDS:			
(1) Physical Therapist Fund .....	19,800		
Total Board of Physical Therapy	19,800		19,800
71. PLANNING AND FEDERAL PROGRAMS, OFFICE OF STATE:			
(a) State Planning Program .....		6,708,430	
(b) Energy Management Program ..		10,310,000	
(c) Special Services Program .....		390,608	
The appropriation to the Office of State Planning and Federal Programs shall include a transfer to the State Personnel Department of \$2,062.			
SOURCE OF FUNDS:			
(1) State General Fund - Transfer	2,193,770		
(2) Federal, Local and Miscellaneous Funds .....		15,215,268	
Total Office of State Planning and Federal Programs .....	2,193,770	15,215,268	17,409,038
72. PROSECUTION SERVICES, OFFICE OF:			
(a) Prosecution, Training, Education and Management Program .....			131,591
SOURCE OF FUNDS:			
(1) Federal, Local and Miscellaneous Funds .....		131,591	

Total Office of Prosecution Services .....		131,591	131,591
<hr/>			
73. PSYCHOLOGY, ALABAMA BOARD OF EXAMINERS IN:			
(a) Professional and Occupational Licensing and Regulation Program.....			16,000
SOURCE OF FUNDS:			
(1) Board of Examiners of Psychology Fund .....		16,000	
<hr/>			
Total Alabama Board of Examiners in Psychology .....		16,000	16,000
<hr/>			
74. PUBLIC SAFETY, DEPARTMENT OF:			
(a) Traffic Control and Accident Prevention Program .....			11,585,308
(b) Criminal Investigation Program ..			2,157,197
(c) Driver's Licensing and Improvement Program .....			5,510,515
(d) Public Safety Support Services Program.....			8,457,743
(e) Administrative Services Program			1,789,237
(f) Alabama Criminal Justice Training Center Program .....			1,600,000
SOURCE OF FUNDS:			
(1) State General Fund .....	30,520,000		
(2) State General Fund - Capital Outlay - Building and Equipment .....		580,000	
<hr/>			
Total Department of Public Safety	31,100,000		31,100,000
<hr/>			
75. PUBLIC SERVICE COMMISSION:			
(a) Administrative Services Program			543,580
(b) Regulatory Services Program ...			2,956,420
The appropriation to the Public Service Commission shall include a transfer to the State Personnel Department of \$3,829.			
SOURCE OF FUNDS:			
(1) Public Service Commission Fund .....		3,500,000	
The above appropriations to the Alabama Public Service Commission shall be payable only from inspection and supervision fees paid by utilities and transportation companies and such parts or percentage of fees and taxes paid by motor carrier or motor transportation companies as are now or may be set aside by law to be used by the Commission. Any surplus remaining in the Alabama Public Service Commission Fund at the end of the fiscal year in			

excess of \$500,000 shall be transferred to the State General Fund.

Total Public Service Commission	3,500,000	3,500,000
76. REAL ESTATE COMMISSION, ALABAMA:		
(a) Professional and Occupational Licensing and Regulation Program.....		600,000
The appropriation to the Alabama Real Estate Commission shall include a transfer to the State Personnel Department of \$932.		
SOURCE OF FUNDS:		
(1) Alabama Real Estate Commission Fund - as provided in Title 34, Chapter 27, 1975 Code of Alabama, as amended and the total expenditures shall in no manner exceed the amounts hereby appropriated.....	600,000	
Total Alabama Real Estate Commission.....	600,000	600,000
77. RETIREMENT SYSTEM OF ALABAMA, EMPLOYEES' (GENERAL FUND SHARE):		
(a) Retirement System Program, Estimated .....		7,754,674
SOURCE OF FUNDS:		
(1) State General Fund - Estimated.....	7,754,674	
Total Employees' Retirement System of Alabama (General Fund Share) .....	7,754,674	7,754,674
78. REVENUE DEPARTMENT:		
(a) State Revenue Administration Program.....		21,622,498
The appropriation to the Revenue Department shall include a transfer to the State Personnel Department of \$45,270.		
SOURCE OF FUNDS:		
(1) State General Fund - as provided in Title 40, Chapter 7, Article 2, Division I, 1975 Code of Alabama, to maintain a program for the equalization of ad valorem tax assessments...	250,000	
(2) Transfer from the gross proceeds of Cigarette Tax Collections, Title 40, Chapter 25, Section 2 and 23, 1975 Code of Alabama .....		295,290
(3) Transfer from the gross proceeds of Financial Institu-		

tion Excise Tax Collections ..	229,890
(4) Transfer from the gross proceeds of the Forest Severance Tax Collections .....	195,605
(5) Transfer from the gross proceeds of Gasoline Tax Collection .....	1,533,924
(6) Transfer from the Income Tax Collections .....	5,102,655
(7) Transfer from the gross proceeds of Motor Fuel Tax Collections .....	885,871
(8) Transfer from the gross proceeds of Motor Vehicle License Collections .....	895,780
(9) Transfer from the Pension Fund as part of the cost of collections of the 1-Mill Ad Valorem Tax .....	273,490
(10) Transfer from the Public School Fund as part of the cost of collections of the 3-Mill Ad Valorem Tax .....	675,798
(11) Transfer from the gross proceeds of Sales Tax Collections .....	7,115,921
(12) Transfer from the gross proceeds of the Tobacco Tax Collections .....	1,460,597
(13) Transfer from the gross proceeds of Use Tax Collections .....	697,598
(14) Transfer from the gross proceeds of the Utility Tax Collections - as provided in Title 40, Chapter 21, Article 4, 1975 Code of Alabama .....	455,817
(15) Federal, local and Miscellaneous Funds .....	1,554,262

The amounts hereinabove appropriated for the cost of maintenance and operations of the Department of Revenue are in lieu of any other statutory provisions for the payment of the cost of operating said Department or collections of the taxes as authorized by law.

Provided, however, in addition to the amount hereinabove appropriated, there is hereby appropriated to the Department of Revenue all sums allowed the Department of Revenue by local Acts of the

Legislature as a charge for the collection of taxes or licenses.			
Total Revenue Department .....	250,000	21,372,498	21,622,498
79. REVENUE—AUTO TITLE AND ANTITHEFT:			
(a) State Revenue Administration Program.....			937,500
SOURCE OF FUNDS:			
(1) State General Fund - Transfer .....	937,500		
Total Revenue - Auto Title and Antitheft .....	937,500		937,500
80. REVENUE—BOARDS OF EQUALIZATION:			
(a) State Revenue Administration Program.....			136,800
SOURCE OF FUNDS:			
(1) State General Fund .....	136,800		
Total Revenue - Boards of Equalization .....	136,800		136,800
81. REVENUE—MOTOR VEHICLE LICENSE:			
(a) State Revenue Administration Program.....			1,918,050
SOURCE OF FUNDS:			
(1) Transfer from the gross proceeds of Motor Vehicle License Collections for the purchase only of Motor Vehicle License Tags.....		1,918,050	
Total Revenue - Motor Vehicle License .....		1,918,050	1,918,050
82. RICHMOND P. HOBSON MEMORIAL BOARD:			
(a) Historical Resources Management Program.....			7,270
SOURCE OF FUNDS:			
(1) State General Fund - as provided in Title 41, Chapter 9, Section 221, 1975 Code of Alabama, and an additional amount .....		7,270	
Total Richmond P. Hobson Memorial Board .....	7,270		7,270
83. SANITARIANS, BOARD OF REGISTRATION FOR:			
(a) Professional and Occupational Licensing and Regulation Program.....			3,700
SOURCE OF FUNDS:			
(1) Registration Board of Sanitarians Fund - as provided in Title 34, Chapter 28, 1975 Code of Alabama .....		3,700	
Total Board of Registration for Sanitarians .....		3,700	3,700

84. SECRETARY OF STATE:			
(a) Administrative Support Services Program.....			365,000
SOURCE OF FUNDS:			
(1) State General Fund .....	365,000		
Total Secretary of State .....	365,000		365,000
85. SECURITIES COMMISSION:			
(a) Regulatory Services Program ...			475,314
SOURCE OF FUNDS:			
(1) State General Fund .....	390,314		
(2) Federal, Local and Miscellaneous Funds .....		60,619	
(3) Sales of Checks License Fund .....		7,381	
(4) Exemption Fund .....		17,000	
Total Securities Commission .....	390,314	85,000	475,314
86. SOCIAL SECURITY AGENCY:			
(a) Administrative Support Services Program.....			231,950
SOURCE OF FUNDS:			
(1) State General Fund .....	221,502		
(2) Contribution Fund .....		10,448	
Total Social Security Agency ...	221,502	10,448	231,950
87. SOCIAL WORK EXAMINERS, ALABAMA STATE BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program.....			43,500
The appropriation to the Alabama State Board of Social Work Examiners shall include a transfer to the State Personnel Department of \$49.			
SOURCE OF FUNDS:			
(1) Alabama State Board of Social Work Examiners Fund - as provided in Title 34, Chapter 30, 1975 Code of Alabama ....		43,500	
Total Alabama State Board of Social Work Examiners .....		43,500	43,500
88. SOIL AND WATER CONSERVATION COMMITTEE, ALABAMA STATE:			
(a) Water Resource Development Program.....			415,235
(b) Soil Survey .....			100,000
SOURCE OF FUNDS:			
(1) State General Fund .....	515,235		
Total Alabama State Soil and Water Conservation Committee ..	515,235		515,235
89. SOUTHERN GROWTH POLICIES BOARD:			
(a) Special Services Program .....			25,300
SOURCE OF FUNDS:			
(1) State General Fund .....	25,300		

Total Southern Growth Policies Board .....				25,300		25,300
90. SPACE SCIENCE EXHIBIT COMMISSION, ALABAMA:						
(a) Tourism and Travel Promotion Program.....						2,977,760
SOURCE OF FUNDS:						
(1) State General Fund - Capital Outlay .....				400,000		
(2) Federal, Local and Miscellaneous Funds .....					2,577,760	
Total Alabama Space Science Exhibit Commission.....				400,000	2,577,760	2,977,760
91. SPEECH PATHOLOGY AND AUDIOLOGY, ALABAMA BOARD OF EXAMINERS FOR:						
(a) Professional and Occupational Licensing and Regulation Program.....						12,000
SOURCE OF FUNDS:						
(1) Alabama Board of Examiners for Speech Pathology and Audiology Fund - as provided in Title 34, Chapter 28A, 1975 Code of Alabama .....					12,000	
Total Alabama Board of Examiners for Speech Pathology and Audiology .....					12,000	12,000
92. SURFACE MINING RECLAMATION COMMISSION:						
(a) Industrial Safety and Accident Prevention Program .....						1,828,900
The appropriation to the Surface Mining Reclamation Commission shall include a transfer to the State Personnel Department of \$982.						
SOURCE OF FUNDS:						
(1) Surface Mining Reclamation Commission Fund - as provided by Title 9, Chapter 16, Article 2, 1975 Code of Alabama. All fees and charges, grants, gifts, fines, bond forfeitures or other monies received under the above act, in addition to the appropriation herein made, are appropriated to the Surface Mining Reclamation Commission .....					1,828,900	
Total Surface Mining Reclamation Commission .....					1,828,900	1,828,900
93. TANNEHILL HISTORICAL STATE PARK:						
(a) Historical Resources Management Program.....						778,000



## SOURCE OF FUNDS:

(1) State General Fund .....	200,000		
(2) Federal, Local and Miscellaneous Funds .....		578,000	
Total Tannehill Historical State Park .....	200,000	578,000	778,000

## 94. TENNESSEE-TOMBIGBEE WATERWAY DEVELOPMENT AUTHORITY:

(a) Water Resource Development Program .....			474,951
--	--	--	---------

## SOURCE OF FUNDS:

(1) State General Fund - as provided in Title 33, Chapter 8, 1975 Code of Alabama as amended .....	140,000		
(2) Federal, Local and Miscellaneous Funds .....		334,951	
Total Tennessee-Tombigbee Waterway Development Authority .....	140,000	334,951	474,951

## 95. TOXICOLOGY AND CRIMINAL INVESTIGATION, ALABAMA DEPARTMENT OF:

(a) Forensic Science Services Program .....			2,846,500
---	--	--	-----------

The appropriation to the Alabama Department of Toxicology and Criminal Investigation shall include a transfer to the State Personnel Department of \$3,240.

## SOURCE OF FUNDS:

(1) State General Fund .....	1,955,000		
(2) State General Fund - Transfer-Capital Outlay .....	700,000		
(3) Federal, Local and Miscellaneous Funds .....		191,500	
Total Alabama Department of Toxicology and Criminal Investigation .....	2,655,000	191,500	2,846,500

In addition to the above appropriation there is hereby appropriated \$200,000 to the Department of Toxicology and Criminal Investigation to be conditional upon the condition of the State General Fund and upon the approval of the Governor.

## 96. TREASURER, STATE:

(a) Fiscal Management Program ....			864,500
------------------------------------	--	--	---------

## SOURCE OF FUNDS:

(1) State General Fund .....	864,500		
Total State Treasurer .....	864,500		864,500

97. UNIFORM STATE LAWS, COMMISSION ON:		
(a) Special Services Program .....		4,275
SOURCE OF FUNDS:		
(1) State General Fund - as provided in Title 41, Chapter 9, Article 12, 1975 Code of Alabama .....	4,275	
Total Commission on Uniform State Laws .....	4,275	4,275
98. VETERANS AFFAIRS, DEPARTMENT OF:		
(a) Administration of Veterans Affairs Program .....		1,696,430
SOURCE OF FUNDS:		
(1) State General Fund .....	1,696,430	
Total Department of Veterans Affairs .....	1,696,430	1,696,430
99. VETERINARY MEDICAL EXAMINERS, ALABAMA STATE BOARD OF:		
(a) Professional and Occupational Licensing and Regulation Program .....		10,925
SOURCE OF FUNDS:		
(1) State Board of Veterinary Medical Examiners Fund - as provided in Title 34, Chapter 29, 1975 Code of Alabama ...	10,925	
Total Alabama State Board of Veterinary Medical Examiners ..	10,925	10,925
100. WATER AND WASTE WATER SYSTEMS PERSONNEL, BOARD OF CERTIFICATION FOR:		
(a) Professional and Occupational Licensing and Regulation Program .....		4,800
SOURCE OF FUNDS:		
(1) Operators Certification Fund - as provided in Title 22, Chapter 25, 1975 Code of Alabama ...	4,800	
Total Board of Certification for Water and Waste Systems Personnel .....	4,800	4,800
101. WATER WELL STANDARDS BOARD, ALABAMA:		
(a) Professional and Occupational Licensing and Regulation Program .....		51,000
SOURCE OF FUNDS:		
(1) Well Digger's Licensing Fund - as provided in Title 22, Chapter 24, 1975 Code of Alabama ...	51,000	
Total Alabama Water Well Standards Board .....	51,000	51,000

## 102. WOMEN'S COMMISSION, ALABAMA:

(a) Employment and Social Opportunities Program .....		10,300
SOURCE OF FUNDS:		
(1) State General Fund .....	10,300	
Total Alabama Women's Commission .....	10,300	10,300

## D. OTHER FUNCTIONS OF GOVERNMENT FUNDED FROM THE GENERAL FUND:

## 1. ADVERTISING LANDS FOR TAX SALE:

(a) State Revenue Administration Program, Estimated .....		45,000
SOURCE OF FUNDS:		
(1) State General Fund .....	45,000	
Total Advertising Lands for Tax Sale .....	45,000	45,000

## 2. ARREST OF ABSCONDING FELONS:

(a) Criminal Investigation Program, Estimated .....		51,000
SOURCE OF FUNDS:		
(1) State General Fund .....	51,000	
Total Arrest of Absconding Felons .....	51,000	51,000

## 3. AUTOMATIC APPEAL EXPENSE:

(a) Legal Advice and Legal Service Program, Estimated .....		1,700
SOURCE OF FUNDS:		
(1) State General Fund as provided in Title 12, Chapter 22, Sections 150 and 241, 1975 Code of Alabama .....	1,700	
Total Automatic Appeal Expense .....	1,700	1,700

## 4. CIVIL COURT COSTS IN CONNECTION WITH AD VALOREM TAX ASSESSMENTS APPEALS:

(a) State Revenue Administration Program, Estimated .....		200
SOURCE OF FUNDS:		
(1) State General Fund .....	200	
Total Civil Court Costs in Connection with Ad Valorem Tax Assessments Appeals .....	200	200

## 5. CONSUMER UTILITY RATE HEARING:

(a) Executive Direction Program ...		250,000
SOURCE OF FUNDS:		
(1) State General Fund as provided in Title 37, Chapter 1, Article 1, 1975 Code of Alabama .....	250,000	

Total Consumer Utility Rate Hearing .....	250,000	250,000
6. COURT COSTS - ACT NO. 558, 1957:		
(a) Court Operations Program, Estimated .....		50,000
SOURCE OF FUNDS:		
(1) State General Fund pursuant to Act No. 558, 1957, page 777 .....	50,000	
Total Court Costs - Act No. 558, 1957 .....	50,000	50,000
7. COURTS COSTS NOT OTHERWISE PROVIDED FOR:		
(a) Legal Advice and Legal Service Program, Estimated .....		670,000
SOURCE OF FUNDS:		
(1) State General Fund .....	670,000	
Total Court Costs Not Otherwise Provided For .....	670,000	670,000
8. DISTRIBUTION OF PUBLIC DOCUMENTS:		
(a) Administrative Support Service Program, Estimated .....		1,500
SOURCE OF FUNDS:		
(1) State General Fund .....	1,500	
Total Distribution of Public Documents .....	1,500	1,500
9. ELECTION EXPENSES:		
(a) Special Services Program, Estimated .....		500,000
SOURCE OF FUNDS:		
(1) State General Fund .....	500,000	
Total Election Expenses .....	500,000	500,000
10. EMERGENCY FUND, DEPARTMENTAL:		
(a) Special Services Program .....		450,000
SOURCE OF FUNDS:		
(1) State General Fund (This is the appropriation contemplated in Title 41, Chapter 4, Section 94, Code of Alabama 1975, and shall be the only amount appropriated and the total amount expended under the provisions of said section) .....	450,000	
Total Departmental Emergency Fund .....	450,000	450,000
11. FAIR TRIAL TAX TRANSFER:		
(a) Court Operations Program .....		100,000
SOURCE OF FUNDS:		
(1) State General Fund .....	100,000	
Total Fair Trial Tax Transfer ...	100,000	100,000

12. FEEDING OF PRISONERS:		
(a) Institutional Services Corrections Program, Estimated .....		3,000,000
SOURCE OF FUNDS:		
(1) State General Fund for expenses of feeding prisoners in county jails.....	3,000,000	
Total Feeding of Prisoners .....	3,000,000	3,000,000
13. GENERAL GOVERNMENT:		12,500,000
SOURCE OF FUNDS:		
(1) Federal Revenue Sharing ....	12,500,000	
Total General Government.....	12,500,000	12,500,000
14. GOVERNORS' CONFERENCE, NATIONAL:		
(a) Executive Direction Program ...		40,892
SOURCE OF FUNDS:		
(1) State General Fund.....	40,892	
Total National Governors' Conference.....	40,892	40,892
15. GOVERNOR'S COUNCILLOR:		
(a) Executive Direction Program ...		36,000
SOURCE OF FUNDS:		
(1) State General Fund as provided in Title 36, Chapter 13, Section 13, 1975 Code of Alabama .....	36,000	
Total Governor's Councillor .....	36,000	36,000
16. GOVERNOR'S PROCLAMATION EXPENSES:		
(a) Executive Direction Program ...		150,000
SOURCE OF FUNDS:		
(1) State General Fund.....	150,000	
Total Governor's Proclamation Expenses .....	150,000	150,000
17. GOVERNORS' WIDOWS RETIREMENT:		
(a) Executive Direction Program ...		14,400
SOURCE OF FUNDS:		
(1) State General Fund.....	14,400	
Total Governors' Widows Retirement .....	14,400	14,400
18. INSURANCE, STATE EMPLOYEES':		
(a) Administrative Support Service Program, Estimated .....		2,100,000
SOURCE OF FUNDS:		
(1) State General Fund, Estimated.....	2,100,000	
Total State Employees' Insurance .....	2,100,000	2,100,000
19. INTERPRETER'S ACCOUNT:		
(a) Court Support Services Program, Estimated .....		1,000
SOURCE OF FUNDS:		

(1) State General Fund as provided in Title 12, Chapter 21, Sections 131-134, 1975 Code of Alabama .....			1,000	
Total Interpreter's Account .....			1,000	1,000
20. LAW ENFORCEMENT FUND:				
(a) Special Police Services Program .....				9,000
SOURCE OF FUNDS:				
(1) State General Fund - Transfer .....			9,000	
Total Law Enforcement Fund ...			9,000	9,000
21. LAW ENFORCEMENT LEGAL DEFENSE:				
(a) Legal Advice and Legal Service Program .....				5,000
SOURCE OF FUNDS:				
(1) State General Fund to carry out provisions of Act No. 259, 1957 Regular Session .....			5,000	
Total Law Enforcement Legal Defense .....			5,000	5,000
22. LEGISLATURES, NAT'L. CONFERENCE OF STATE:				
(a) Legislative Operations and Support Program .....				43,390
SOURCES OF FUNDS:				
(1) State General Fund .....			43,390	
Total National Conference of State Legislators .....			43,390	43,390
23. MAILING TAX NOTICES:				
(a) State Revenue Administration Program, Estimated .....				1,000
SOURCE OF FUNDS:				
(1) State General Fund .....			1,000	
Total Mailing Tax Notices .....			1,000	1,000
24. MATCHING FEDERAL FUNDS NOT OTHERWISE PROVIDED FOR:				
(a) Court Operations Program .....				90,000
SOURCE OF FUNDS:				
(1) State General Fund .....			90,000	
Total Matching Federal Funds Not Otherwise Provided For .....			90,000	90,000
25. MENTAL HEALTH FUND, ALABAMA SPECIAL:				
SOURCE OF FUNDS:				22,562,500
(1) State General Fund Transfer ..			22,562,500	
Total Alabama Special Mental Health Fund .....			22,562,500	22,562,500
26. PRINTING OF LEGISLATIVE ACTS AND JOURNALS:				
(a) Administrative Support Services Program, Estimated .....				163,300
SOURCE OF FUNDS:				

(1) State General Fund .....	163,300	
Total Printing of Legislative Acts and Journals .....	163,300	163,300
27. PRINTING OF STATE AND COUNTY PRIVILEGE LICENSES:		
(a) State Revenue Administration Program .....		11,000
SOURCE OF FUNDS:		
(1) State General Fund .....	11,000	
Total Printing of State and County Privilege Licenses .....	11,000	11,000
28. PUBLIC DEFENDERS:		
(a) Court Operations Program .....		33,000
SOURCE OF FUNDS:		
(1) State General Fund for salaries of Public Defenders for the 21st Judicial Circuit, as provided by Act No. 1158, 1969 Regular Session .....	33,000	
Total Public Defenders .....	33,000	33,000
29. REGISTRATION OF VOTERS:		
(a) Special Services Program, Estimated .....		600,000
SOURCE OF FUNDS:		
(1) State General fund .....	600,000	
Total Registration of Voters .....	600,000	600,000
30. REMOVAL OF PRISONERS:		
(a) Special Police Services Program, Estimated .....		105,000
SOURCE OF FUNDS:		
(1) State General Fund .....	105,000	
Total Removal of Prisoners .....	105,000	105,000
31. SOCIAL SECURITY (GENERAL FUND SHARE):		
(a) Administrative Support Service Program, Estimated .....		3,700,000
(Includes payment to MICA)		
SOURCE OF FUNDS:		
(1) State General Fund .....	3,700,000	
Total Social Security (General Fund Share) .....	3,700,000	3,700,000
32. STATE TREASURER—PREVIOUS YEAR'S UNPAID WARRANTS:		
(a) Special Services Program, Estimated .....		136,000
SOURCE OF FUNDS:		
(1) State General Fund .....	136,000	
Total State Treasurer-Previous Year's Unpaid Warrants .....	136,000	136,000

E. FINANCIAL ASSISTANCE TO  
NON-STATE AGENCIES:  
1. AMOS ALONZO STAGG BOWL:

(a) Tourism and Travel Promotion Program.....		3,850
SOURCE OF FUNDS:		
(1) State General Fund.....	3,850	
Total Amos Alonzo Stagg Bowl ..	3,850	3,850
2. APPALACHIAN REGIONAL COMMISSION:		
(a) Planning Program .....		168,625
SOURCE OF FUNDS:		
(1) State General Fund.....	168,625	
Total Appalachian Regional Commission.....	168,625	168,625
3. ARMED FORCES DAY IN ALABAMA:		
(a) Historical Resources Management Program.....		1,150
SOURCE OF FUNDS:		
(1) State General Fund.....	1,150	
Total Armed Forces Day in Alabama .....	1,150	1,150
4. AZALEA TRAIL FESTIVAL, MOBILE:		
(a) Tourism and Travel Promotion Program.....		2,140
SOURCE OF FUNDS:		
(1) State General Fund.....	2,140	
Total Mobile Azalea Trail Festival .....	2,140	2,140
5. BIG NANCE CREEK WATER MANAGEMENT DISTRICT:		
(a) Water Resource Development Program.....		1,925
SOURCE OF FUNDS:		
(1) State General Fund.....	1,925	
Total Big Nance Creek Water Management District.....	1,925	1,925
6. BIRMINGHAM CHAMBER MUSIC SOCIETY:		
(a) Fine Arts Program .....		2,140
SOURCE OF FUNDS:		
(1) State General Fund.....	2,140	
Total Birmingham Chamber Music Society .....	2,140	2,140
7. BIRMINGHAM FESTIVAL OF ARTS, INC.:		
(a) Fine Arts Program .....		21,380
SOURCE OF FUNDS:		
(1) State General Fund.....	21,380	
Total Birmingham Festival of Arts, Inc. ....	21,380	21,380
8. BIRMINGHAM SICKLE CELL:		
(a) Sickle Cell Education Program ..		30,000
SOURCE OF FUNDS:		
(1) State General Fund.....	30,000	



Total Birmingham Sickle Cell ...	30,000	30,000
9. BLUE AND GRAY ASSOCIATION, INC.:		
(a) Tourism and Travel Promotion Program.....		7,700
SOURCE OF FUNDS:		
(1) State General Fund.....	7,700	
Total Blue and Gray Association, Inc.....	7,700	7,700
10. CHILTON COUNTY PEACH FESTIVAL:		
(a) Tourism and Travel Promotion Program.....		6,400
SOURCE OF FUNDS:		
(1) State General Fund.....	6,400	
Total Chilton County Peach Festival.....	6,400	6,400
11. CHOCOLOCOCO CREEK WATERSHED ASSOCIATION:		
(a) Water Resource Development Program.....		3,000
SOURCE OF FUNDS:		
(1) State General Fund.....	3,000	
Total Choccolocco Creek Watershed Association.....	3,000	3,000
12. CHOCTAWHATCHEE RIVER WATERSHED ASSOCIATION, SOUTHEAST:		
(a) Water Resource Development Program.....		1,925
SOURCE OF FUNDS:		
(1) State General Fund.....	1,925	
Total Southeast Choctawhatchee River Watershed Association ....	1,925	1,925
13. CIVIL AIR PATROL:		
(a) Readiness and Recovery Program.....		30,000
SOURCE OF FUNDS:		
(1) State General Fund.....	30,000	
Total Civil Air Patrol.....	30,000	30,000
14. COOSA-ALABAMA RIVER IMPROVEMENT ASSOCIATION:		
(a) Water Resource Development Program.....		10,700
SOURCE OF FUNDS:		
(1) State General Fund.....	10,700	
Total Coosa-Alabama River Improvement Association.....	10,700	10,700
15. COOSA RIVER ACTION COUNCIL, INC.:		
(a) Water Resource Development Program.....		8,550
SOURCE OF FUNDS:		
(1) State General Fund.....	8,550	

Total Coosa River Action Council, Inc.....		8,550	8,550
16. DEEP SEA FISHING RODEO, ALABAMA:			
(a) Tourism and Travel Promotion Program.....			1,285
SOURCE OF FUNDS:			
(1) State General Fund.....	1,285		
Total Alabama Deep Sea Fishing Rodeo .....	1,285	1,285	
17. DYNNE CREEK WATERSHED CONSERVANCY DISTRICT:			
(a) Water Resource Development Program.....			1,925
SOURCE OF FUNDS:			
(1) State General Fund.....	1,925		
Total Dynne Creek Watershed Cons. Dist. ....	1,925	1,925	
18. ELK RIVER DEVELOPMENT AGENCY:			
(a) Water Resource Development Program.....			6,400
SOURCE OF FUNDS:			
(1) State General Fund.....	6,400		
Total Elk River Development Agency .....	6,400	6,400	
19. ELYTON RECOVERY CENTER:			
(a) Non-Institutional Treatment and Care Program .....			155,000
SOURCE OF FUNDS:			
(1) State General Fund - Capital Improvement.....	155,000		
Total Elyton Recovery Center....	155,000	155,000	
20. ENERGY BOARD, SOUTHERN STATES:			
(a) Discovery and Development of Mineral, Energy and Water Resources, Geologic Research and Topographic Mapping Program .....			21,171
SOURCE OF FUNDS:			
(1) State General Fund.....	21,171		
Total Southern States Energy Board .....	21,171	21,171	
21. FEDERATION OF SOUTHERN COOPERATIVES:			
(a) Tourism and Travel Promotion Program.....			8,550
(For Miss Black Alabama Pageant)			
SOURCE OF FUNDS:			
(1) State General Fund.....	8,550		
Total Federation of Southern Cooperatives .....	8,550	8,550	

22. FOREST FESTIVAL, ALABAMA:		
(a) Forest Information and Education Program .....		4,275
SOURCE OF FUNDS:		
(1) State General Fund .....	4,275	
Total Alabama Forest Festival ..	4,275	4,275
23. GENEVA COUNTY TOMATO FESTIVAL:		
(a) Tourism and Travel Promotion Program .....		4,275
SOURCE OF FUNDS:		
(1) State General Fund .....	4,275	
Total Geneva County Tomato Festival .....	4,275	4,275
24. GEORGE LINDSEY CELEBRITY BENEFIT, INC.:		
(a) Tourism and Travel Promotion Program .....		8,550
SOURCE OF FUNDS:		
(1) State General Fund .....	8,550	
Total George Lindsey Celebrity Benefit, Inc. ....	8,550	8,550
25. GULF SHORES TOURIST ASSOCIATION:		
(a) Tourism and Travel Promotion Program .....		11,543
SOURCE OF FUNDS:		
(1) State General Fund .....	11,543	
Total Gulf Shores Tourist Association .....	11,543	11,543
26. GUNTERSVILLE BOAT RACES:		
(a) Tourism and Travel Promotion Program .....		7,310
SOURCE OF FUNDS:		
(1) State General Fund .....	7,310	
Total Guntersville Boat Races ...	7,310	7,310
27. HANK WILLIAMS MEMORIAL ASSOCIATION:		
(a) Historical Resources Management Program .....		4,275
SOURCE OF FUNDS:		
(1) State General Fund .....	4,275	
Total Hank Williams Memorial Association .....	4,275	4,275
28. HELEN KELLER PROPERTY BOARD:		
(a) Historical Resources Management Program .....		25,000
SOURCE OF FUNDS:		
(1) State General Fund .....	25,000	
Total Helen Keller Property Board .....	25,000	25,000
29. INTERSTATE MINING COMMISSION:		

(a) Planning Program .....		8,901	
SOURCE OF FUNDS:			
(1) State General Fund .....		8,901	
Total Interstate Mining Commis-			
sion .....		8,901	8,901
30. JUNIOR MISS PAGEANT, INC., AMERICA'S:			
(a) Tourism and Travel Promotion Program .....			33,000
SOURCE OF FUNDS:			
(1) State General Fund .....		33,000	
Total America's Junior Miss Pageant, Inc. ....		33,000	33,000
31. KETCHEPEDRAKEE CREEK WATERSHED CONSERVANCY DISTRICT:			
(a) Water Resource Development Program .....			1,925
SOURCE OF FUNDS:			
(1) State General Fund .....		1,925	
Total Ketchepedrakee Creek Watershed Conservancy District .		1,925	1,925
32. LAKE EUFAULA SUMMER SPECTACULAR:			
(a) Tourism and Travel Promotion Program .....			7,700
SOURCE OF FUNDS:			
(1) State General Fund .....		7,700	
Total Lake Eufaula Summer Spectacular .....		7,700	7,700
33. MOBILE CARNIVAL ASSOCIATION:			
(a) Tourism and Travel Promotion Program .....			3,848
SOURCE OF FUNDS:			
(1) State General Fund .....		3,848	
Total Mobile Carnival Association		3,848	3,848
34. MOUNTAIN LAKES TOURIST ASSOCIATION, ALABAMA:			
(a) Tourism and Travel Promotion Program .....			19,665
SOURCE OF FUNDS:			
(1) State General Fund .....		19,665	
Total Alabama Mountain Lakes Tourist Association .....		19,665	19,665
35. PEA RIVER HISTORICAL AND GENEALOGICAL SOCIETY:			
(a) Historical Resources Management Program .....			4,275
SOURCE OF FUNDS:			
(1) State General Fund .....		4,275	
Total Pea River Historical and Genealogical Society .....		4,275	4,275

36. PEA RIVER WATERSHED CONSERVANCY DISTRICT:		
(a) Water Resource Development Program.....		1,925
SOURCE OF FUNDS:		
(1) State General Fund.....	1,925	
Total Pea River Watershed Conservancy District.....	1,925	1,925
37. PEANUT FESTIVAL ASSOCIATION, INC., NATIONAL:		
(a) Tourism and Travel Promotion Program.....		10,260
SOURCE OF FUNDS:		
(1) State General Fund.....	10,260	
Total National Peanut Festival Association, Inc. ....	10,260	10,260
38. PIKE COUNTY PIONEER MUSEUM ASSOCIATION:		
(a) Historical Resources Management Program.....		4,275
SOURCE OF FUNDS:		
(1) State General Fund.....	4,275	
Total Pike County Pioneer Museum Association .....	4,275	4,275
39. PIMENTO FESTIVAL:		
(a) Tourism and Travel Promotion Program.....		855
SOURCE OF FUNDS:		
(1) State General Fund.....	855	
Total Pimento Festival .....	855	855
40. RIVERBOAT COMMISSION, INC., MONTGOMERY:		
(a) Tourism and Travel Promotion Program.....		19,250
SOURCE OF FUNDS:		
(1) State General Fund.....	19,250	
Total Montgomery Riverboat Commission, Inc. ....	19,250	19,250
41. SHAKESPEARE FESTIVAL, ALABAMA:		
(a) Fine Arts Program .....		6,410
SOURCE OF FUNDS:		
(1) State General Fund.....	6,410	
Total Alabama Shakespeare Festival .....	6,410	6,410
42. SOUTHERN CHAMPIONSHIP CHARITY HORSESHOW:		
(a) Tourism and Travel Promotion Program.....		4,275
SOURCE OF FUNDS:		
(1) State General Fund.....	4,275	
Total Southern Championship Charity Horseshow .....	4,275	4,275

43. SPIRIT OF AMERICA FESTIVAL, INC.:		
(a) Tourism and Travel Promotion Program.....		3,850
SOURCE OF FUNDS:		
(1) State General Fund.....	3,850	
Total Spirit of America Festival, Inc.....	3,850	3,850
44. SPORTS HALL OF FAME:		
(a) Historical Resources Management Program.....		28,500
SOURCE OF FUNDS:		
(1) State General Fund.....	28,500	
Total Sports Hall of Fame.....	28,500	28,500
45. STEER SHOW ASSOCIATION, ALABAMA STATE:		
(a) Agricultural Development Services Program.....		15,000
SOURCE OF FUNDS:		
(1) State General Fund.....	15,000	
Total Alabama State Steer Show Association.....	15,000	15,000
46. TALLACOOSA HIGHLAND LAKES ASSOCIATION:		
(a) Tourism and Travel Promotion Program.....		7,700
SOURCE OF FUNDS:		
(1) State General Fund.....	7,700	
Total Tallacoosa Highland Lakes Association.....	7,700	7,700
47. TALLASSEEHATCHIE CREEK WATERSHED CONSERVANCY DISTRICT:		
(a) Water Resource Development Program.....		1,700
SOURCE OF FUNDS:		
(1) State General Fund.....	1,700	
Total Tallassee hatchie Creek Watershed Conservancy District.....	1,700	1,700
48. TENNESSEE RIVER VALLEY ASSOCIATION:		
(a) Water Resources Development Program.....		11,970
SOURCE OF FUNDS:		
(1) State General Fund.....	11,970	
Total Tennessee River Valley Association.....	11,970	11,970
49. TENNESSEE VALLEY PUBLICITY AND IMPROVEMENT ASSOCIATION:		
(a) Tourism and Travel Promotion Program.....		34,200
SOURCE OF FUNDS:		

	(1) State General Fund .....	34,200	
	Total Tennessee Valley Publicity and Improvement Association ...	34,200	34,200
50.	TERRAPIN CREEK WATERSHED CONSERVANCY DISTRICT:		
	(a) Water Resource Development Program.....		1,925
	SOURCE OF FUNDS:		
	(1) State General Fund .....	1,925	
	Total Terrapin Creek Watershed Conservancy District .....	1,925	1,925
51.	TRAVEL COUNCIL, ALABAMA:		
	(a) Tourism and Travel Promotion Program.....		34,200
	SOURCE OF FUNDS:		
	(1) State General Fund .....	34,200	
	Total Alabama Travel Council ...	34,200	34,200
52.	TRI-RIVERS WATERWAY DEV- ELOPMENT ASSOCIATION:		
	(a) Water Resource Development Program.....		23,085
	SOURCE OF FUNDS:		
	(1) State General Fund .....	23,085	
	Total Tri-Rivers Waterway Dev- elopment Association .....	23,085	23,085
53.	VESTAVIA HILLS DOGWOOD FESTIVAL AND TRAIL:		
	(a) Tourism and Travel Promotion Program.....		855
	SOURCE OF FUNDS:		
	(1) State General Fund .....	855	
	Total Vestavia Hills Dogwood Festival and Trail.....	855	855
54.	VETERANS DAY COMMITTEE, NATIONAL:		
	(a) Historical Resources Management Program.....		5,990
	SOURCE OF FUNDS:		
	(1) State General Fund .....	5,990	
	Total National Veterans Day Committee .....	5,990	5,990
55.	VETERANS DAY IN ALABAMA:		
	(a) Historical Resources Management Program.....		1,710
	SOURCE OF FUNDS:		
	(1) State General Fund .....	1,710	
	Total Veterans Day in Alabama .	1,710	1,710
56.	WOMEN'S HALL OF FAME, ALABAMA:		
	(a) Historical Resources Management Program.....		5,815
	SOURCE OF FUNDS:		
	(1) State General Fund .....	5,815	

Total Alabama Women's Hall of Fame.....		5,815	5,815
57. Y.M.C.A. YOUTH LEGISLATURE:			
(a) Special Services Program .....			10,000
SOURCE OF FUNDS:			
(1) State General Fund.....		10,000	
Total Y.M.C.A. Youth Legislature		10,000	10,000
58. CAHABA HISTORICAL COMMISSION:			
(a) Historical Resources Management Program.....			6,000
SOURCE OF FUNDS:			
(1) State General Fund.....		6,000	
Total Cahaba Historical Commission .....		6,000	6,000
59. MOTOR SPORTS HALL OF FAME:			
(a) Tourism and Travel Promotion Program.....			75,000
SOURCE OF FUNDS:			
(1) State General Fund.....		75,000	
Total Motor Sports Hall of Fame		75,000	75,000
60. ARMY AVIATION MUSEUM, FORT RUCKER, ALABAMA:			
(a) Historical Resources Management Program.....			75,000
SOURCE OF FUNDS:			
(1) State General Fund.....		75,000	
Total Army Aviation Museum, Fort Rucker .....		75,000	75,000
61. DORSE, MARY E., RECREATIONAL AND EDUCATIONAL CENTER:			
(a) Financial Assistance Program ...			5,000
SOURCE OF FUNDS:			
(1) State General Fund.....		5,000	
Total Mary E. Dorse Recreational and Educational Center .....		5,000	5,000
F. DEBT SERVICE FUNDED FROM THE GENERAL FUND:			
1. General Obligation Capital Improvement Bonds, Series A and B, Estimated.....			1,141,188
SOURCE OF FUNDS:			
(1) State General Fund, Series A and B, Estimated .....		1,141,188	
Total General Obligation Capital Improvement Bonds, Series A and B, Estimated.....		1,141,188	1,141,188



2. General Obligation Coosa Waterway Bonds, Series A, Estimated .....		650,848
SOURCE OF FUNDS:		
(1) State General Fund .....	650,848	
Total General Obligation Coosa Waterway Bonds, Series A, Estimated	650,848	650,848
3. General Obligation Docks Facilities Bonds, Series A and B, Estimated...		2,899,600
SOURCE OF FUNDS:		
(1) State General Fund .....	2,899,600	
Total General Obligation Docks Facilities Bonds, Series A and B, Estimated .....	2,899,600	2,899,600
4. General Obligation Inland Waterways Facilities Bonds, Series 1970 B, Estimated .....		613,200
SOURCE OF FUNDS:		
(1) State General Fund .....	613,200	
Total General Obligation Inland Waterways Facilities Bonds, Series 1970 B, Estimated .....	613,200	613,200
5. Inland Waterway Improvement Bonds, Series A through D, Estimated		437,543
SOURCE OF FUNDS:		
(1) State General Fund .....	437,543	
Total Inland Waterway Improvement Bonds, Series A through D, Estimated	437,543	437,543
6. Tennessee-Tombigbee Waterway Bonds, Series A and B, Estimated...		880,433
SOURCE OF FUNDS:		
(1) State General Fund, Estimated pursuant to Constitutional Amendment No. CCLXX as provided in Act No. 248, 1967 Regular Session	880,433	
Total Tennessee-Tombigbee Waterway Bonds Series A and B, Estimated	880,433	880,433

**Section 3.** The Sum of \$1,968,680 or so much thereof as may become available as herein provided, is hereby appropriated from the State General Fund in the state treasury to the State Building Commission for use in acquiring land adjacent to the state capitol building for use as additional parking space. The appropriation made herein is conditional upon the condition of the State General Fund, as ascertained by the Governor, and shall be released only upon approval of the Governor.

In addition to the above appropriation there is hereby appropriated \$38,000 to the State Virology Laboratory in Jefferson County to be conditional upon the condition of the State General Fund and upon the approval of the Governor.

**Section 4.** That, except as may be herein otherwise provided,

that amounts herein specifically appropriated shall be in lieu of the amounts heretofore provided or appropriated by law for such purposes. That the amounts herein appropriated are the maximum amounts to be expended for the purposes herein designated and in no event shall the maximum expenditure provided for any items of expense exceed the amount allocated herein except as may be provided for under Section 5 and 6 of this bill, as provided in the Budget Management Act of 1976, Act No. 494, 1976 Regular Session, and those appropriations herein made, except appropriations to the Alabama Alcoholic Beverage Control Board for the purchase of alcoholic beverages, are and shall be subject to the terms, conditions, provisions and limitations of Title 40, Chapter 8, Sections 80-96, Code of Alabama 1975 and the Budget Management Act of 1976 (Act No. 494).

**Section 5.** That any surplus remaining in any appropriation herein made from the General Fund to any office, department, bureau, board, commission, or agency may be transferred, on order of the Governor, to any other appropriation herein made from the General Fund when such appropriation to any office, department, bureau, board, commission, or agency is insufficient to pay salaries in that office, department, bureau, board, commission, or agency.

**Section 6.** In addition to appropriations herein made, all gifts, grants, contributions, appropriations, entitlements or any other funds, in excess of the amount carried in the bill, including grants by the Congress of the United States, municipalities or counties, to any department, division, board, bureau, commission, agency, institution, office or officer of the State of Alabama are hereby appropriated and, in the event the same are recurring, are reappropriated to such department, division, board, bureau, commission, agency, institution, office or officer to be used only for the purpose or purposes for which the grant or contribution was or shall be made.

**Section 7.** From the amount received by the State of Alabama during the period October 1, 1980, through September 30, 1981, as grants or entitlements under the State and Local Fiscal Assistance Act of 1972, Public Law 92-512, 92nd Congress and any interest earned by the State thereon there is hereby appropriated the following:

1. Transfer to the State General Fund

For State Employees Salary Increases . . . . . 9,000,000

In the event that the amount of funds actually received is more than the anticipated grants or entitlements, said funds together with any interest, accruals, or reversions accruing from Revenue Sharing

Investments are hereby appropriated for General Government to be spent at the discretion of the Governor. In the event that the amount of funds actually received is less than the anticipated grants or entitlements, then each appropriation shall be reduced on a pro rata basis.

**Section 8.** No funds appropriated herein may be expended for rent, leases, contracts, or purchases of data processing equipment or services or for rent of any office space on any contract, lease, purchase or agreement made prior to September 30, 1980 for such items, unless approved or reapproved on or after October 1, 1980 by the Director of Finance.

**Section 9.** All appropriations shall be allotted and disbursed only in such proportions as the total sum appropriated bears to the total amount available in the source fund. An overdraft or deficit in any fiscal year for any fund shall be prevented as provided by law without discrimination whatsoever by any governor, department, board, bureau, commission, agency, office or institution against any department, board, bureau, commission, agency, office or institution.

**Section 10.** That, if any section, paragraph, sentence, clause, provision, or portion of the Act or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made not in and of itself unconstitutional or invalid.

**Section 11.** That all laws and parts of laws, general, special, private, or local in conflict with or inconsistent with the provisions of this Act be and the same are hereby expressly repealed.

**Section 12.** That each Department of State funded through the provisions of this budget shall provide an equal opportunity for employment and business opportunities for all citizens of this state without regard to sex or race.

**Section 13.** That this Act shall become effective October 1, 1980.

Approved May 28, 1980

Time: 4:00 P.M.

## AN ACT

To promote the maintenance of Shelby County's natural beauty by eliminating unsightly and unhealthy litter; to provide for the dissemination in Shelby County of information pertaining to laws relative to littering and penalties therefor; to provide that certain identifiable litter constitutes prima facie evidence of littering by the person with whom it can be identified; to grant authority to the Shelby County Commission or other like governing body to establish and appoint, for the enforcement of littering laws in Shelby County, an agency and personnel empowered with the authority of peace officers as defined by state law for the primary purpose of enforcing littering laws and other laws relating to littering in Shelby County; to grant authority to the Shelby County Health Department to enforce littering laws in Shelby County, and to provide for a means to plea to the public to heed such laws and to help to eliminate litter in such county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Shelby County Commission or other like county governing body is hereby authorized to provide for printing and furnishing to the judge of probate or other officer charged with the duty of issuing privilege licenses in the county, brochures, bulletins or signs of a type suitable for posting in business establishments within said county. Such brochures, bulletins or signs shall inform the public that:

1. It is unlawful to dump, deposit, place, throw or leave refuse, paper, litter, rubbish, debris, filthy or odoriferous objects, substances, or other trash upon a state or county highway, road or other public thoroughfare; and any person convicted thereof is punishable by fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment for not less than five nor more than thirty days, or by both such fine and imprisonment.

2. It is unlawful to place, put, throw, leave, or dump garbage, refuse, trash, bottles, broken glass, tin cans, or other debris of any kind or character whatsoever upon lands or property owned by any person other than himself or his employer without having obtained written permission from the owner or person in possession thereof; and any person convicted thereof shall be fined not more than five hundred dollars or sentenced to hard labor for the county for not more than six months or both, in the discretion of the court.

3. It is unlawful in Shelby County to place, put, throw, leave, or dump garbage, refuse, trash, bottles, broken glass, tin cans, or other debris of any kind or character whatsoever upon the shore or beach or edge of any public or private lake or stream in Shelby County; and any person convicted thereof shall be fined not more than five hundred dollars or sentenced to hard labor for the county for not more than six months or both in the discretion of the court, and ordered to clean the beach, shore or other area.

**Section 2.** The judge of probate or other officer charged with the duty of issuing privilege licenses in Shelby County may deliver with the privilege license that he issues a copy of such brochures, bulletins or signs for each place of business for which a license is issued and an urgent plea to the public to heed such laws and make every effort to maintain Shelby County's natural beauty by eliminating unsightly or unhealthy litter.

**Section 3.** Mail or other personal items bearing the name or address of the recipient or former owner thereof among refuse, garbage, waste paper, trash, litter or other debris unlawfully issued, thrown, left or dumped within Shelby County shall constitute prima facie evidence that the person whose name or address appears on said mail or other personal item unlawfully placed, put, thrown, left, dumped or deposited said refuse, garbage, waste paper, trash, litter or other debris and any person, law enforcement officer, or member of the Shelby County Health Department shall have the authority to seek prosecution against such person based on such prima facie evidence.

**Section 4.** The Shelby County Commission or other like county governing body may, at its discretion, by resolution, establish an agency, or appoint personnel, or both, for the primary purpose of enforcing littering laws, and all laws relating to littering in Shelby County, and such agency, or personnel, or both, shall be empowered with the authority of peace officers as defined by state law for the purpose of enforcing such laws.

**Section 5.** The Shelby County Health Department may, at its discretion, enforce littering laws, and other laws relating to littering in Shelby County, in addition to health laws and regulations governing the control and disposal of solid waste in Shelby County, and shall be empowered with the authority of peace officers as defined by state law for the purpose of enforcing such laws.

**Section 6.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws relative to littering; however, any law which conflicts specifically herewith is hereby repealed.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-595

H. 1066—Moore, Smith (C)

AN ACT

Applying only to Shelby County; regulating use and identifying certain mobile homes; providing for the use of decals for such purpose; and providing fees and penalties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Shelby County, every person, firm, or corporation who owns, maintains, or keeps a mobile home which is considered for ad valorem tax purposes a part of the realty on which it is located shall receive a colored decal upon the payment of the ad valorem tax on said mobile home. Said decals shall be designed by the state department of revenue and displayed on the mobile home for which the ad valorem taxes were paid, on or near the front entrance of such mobile home in such manner that it shall be readily accessible to the view of the county license inspector.

**Section 2.** It is the intention of this act to include within its provisions every mobile home situated upon leased real property, or situated upon real property the ownership of which is different from or the same as the ownership of such mobile home, regardless of whether such mobile home has been affixed to such real property as a matter of law. It is not the intent of this act to include mobile homes carried in a mobile home dealers' inventory which are for sale.

**Section 3.** The owner of any mobile home who willfully fails or refuses to display the identification decal on such mobile home, as required in Section 1 of this act, shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars nor more than five hundred dollars.

**Section 4.** In addition to all applicable criminal sanctions, a license inspector's fee in the penal sum of ten dollars shall be assessed against any person, firm or corporation who fails to assess such mobile home for ad valorem tax purposes at the proper time or who fails to display such identification decal as required by Section 1 of this act.

**Section 5.** If the county license inspector serves a citation, by mail or otherwise, on any person, firm or corporation for

delinquency in assessing such mobile home for ad valorem tax purposes, or for failing to post such identification decal, a citation fee of five dollars shall be assessed against such person, firm or corporation.

**Section 6.** All sums collected as penalty fees or citation fees shall be paid into the county general fund for the use of the county.

**Section 7.** The state department of revenue is hereby empowered to regulate and carry out all rules and regulations necessary to implement the provisions of this act.

**Section 8.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 10.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-596

H. 760—Moore, Smith (C)

### AN ACT

Applying only to Shelby County; providing for the creation of a county license inspector and deputy coroner license inspector; providing for delinquency and citation fees, commissions and penalties allowable to such inspector; providing that all license inspector's fees, commissions and penalties be paid into the county general fund for the use of the county; and repealing all conflicting provisions of law.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There are hereby created and established the offices of county license inspector and deputy license inspector in Shelby County.

**Section 2.** The license inspector, and any deputy license inspectors as may be authorized by the county governing body, shall, with the approval of the county governing body, be appointed by the chairman of the governing body and shall serve at the pleasure of such appointing authority.

**Section 3.** The salary of the license inspector and any deputy

license inspectors shall be in such sum as shall be approved by the governing body of the county and shall be payable in equal monthly installments out of the general fund of the county. The license inspector shall be a county officer and shall maintain his office in the courthouse of the county. Any deputy license inspectors shall be county officers, and shall maintain offices in such places as may be authorized by the county governing body.

**Section 4.** The license inspector and any deputy license inspectors shall, before entering upon the duties of their offices, take the oath of office prescribed in the Constitution, and shall enter into bond, which bond shall be conditioned as other official bonds are conditioned and be in such penal sum and form as the governing body of the county may prescribe. Said bond shall be approved by and be filed with the probate judge of the county and may be made by any surety company or companies authorized and qualified to do business in the State of Alabama. All premiums on said bond shall be payable out of the general fund of the county.

**Section 5.** The county governing body of such county shall furnish and equip suitable office space for the license inspector and any deputy license inspector, and shall furnish and supply all stationery, equipment and supplies necessary for the conduct of such offices, except such stationery and supplies as the law requires the State Department of Revenue or the State Department of Finance to furnish to license inspectors.

**Section 6.** All duties and authority imposed on or vested in license inspectors by Section 40-12-10, Code of Alabama 1975, or by any other statute, are hereby imposed upon and vested in the office of the county license inspector and in the office of deputy county license inspector created by this Act, and such license inspector and such deputy license inspectors shall perform such further duties as may be prescribed by the county governing body.

**Section 7.** Fees, commissions and penalties due to license delinquencies shall be as provided by Section 40-12-10, Code of Alabama 1975, as amended, or by any other statute; provided, however, that in addition to all other penalty or fees for delinquency in payment of any license, there shall be a delinquency fee in the penal sum of ten dollars.

**Section 8.** All citations to delinquents shall be served, by mail or otherwise, by any lawful officer, or by the county license inspector, or his deputy, who shall be allowed as a fee five dollars for each citation served, in lieu of any other fee provided by law for the service of such citations, to be taxed against the delinquent.

**Section 9.** No fees, commissions, or penalties shall be paid to



any license inspector appointed under the provisions of Section 40-12-10, Code of Alabama 1975. All fees, commissions and penalties allowable to the county license inspector, or his deputy under any provision of law, or to any license inspector appointed under the provisions of Section 40-12-10, Code of Alabama 1975, shall be paid into the general fund of the county for the use of the county.

**Section 10.** If any provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications under this Act, which shall be given effect without the invalid provisions and applications, and to this end the provisions of this Act are declared to be severable.

**Section 11.** All laws or parts of laws in conflict with this Act are hereby repealed.

**Section 12.** This Act shall become effective January 1, 1981.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-597

H. 1141—Patton, Roberts

### AN ACT

Relating to Morgan County; providing for the allocation, apportionment and distribution of certain highway gasoline taxes received by the county, contingent upon certain allocations to Morgan County from the state; and providing an effective and expiration date for the provisions of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Morgan County, all funds generated by a statewide wholesale or retail gasoline tax which H.B. 287 of the 1980 Regular Session, becomes, and distributed pursuant to the provisions of the act which H.B. 287 of the 1980 Regular Session becomes, shall be paid into the county treasury and a separate accounting thereof shall be kept.

**Section 2.** The funds received by Morgan County pursuant to said act shall be allocated as follows:

(a) Thirty percent of the amount so allocated or apportioned to the county shall be distributed among the municipalities in the county with respect to which the allocation or apportionment is made, each such distribution among the said municipalities to be on the basis of the ratio of the population of each such municipality to

the total population of all municipalities in the county according to the 1970 or any subsequent federal decennial census; and

(b) The remaining portion of the amount so allocated or apportioned to each county shall be distributed to the county with respect to which such allocation or apportionment is made.

The distributions provided for in this section shall be made monthly.

**Section 3.** The provisions of this act shall not be construed to apply to any funds received from any highway gasoline tax levied pursuant to the provisions of any act or law, except as provided in Section 1 of this act. If the provisions of the act which H.B. 287 becomes are not enacted into legislation, or become null and void, the provisions of this act shall have no force and effect.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** The provisions of this act shall become effective on the first day of August, 1980, and shall remain in full force and effect for a period of forty-eight months, expiring on July 31, 1984.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-598

H. 882—Waggoner

### AN ACT

Relating to Shelby County; providing for a referendum on the question of replacing the probate judge as chairman of the county governing body; further providing for the salary, term of office, vacancy, bond, and election of said chairman.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Upon the condition that the referendum provided in Section 4 of this act is approved, there shall be elected by the qualified electors of Shelby County a fifth county governing body member who shall be the full-time chairman of the Shelby County governing body. Said full-time chairman shall be a qualified elector and resident of the county. Said person shall replace the probate judge as chairman of the Shelby County governing body and shall hold all powers and duties of the chairman as prescribed

by Act 179, 1949 Regular Session (Acts of 1949, p. 206).

**Section 2.** The full-time chairman's salary shall be 10% more than the amount paid to the highest non-elected county official. Said chairman shall post the same bond as other county governing body members. Any vacancies in the chairman position shall be filled in the same manner as other county governing body members' vacancies are filled.

**Section 3.** The initial election of the full-time chairman shall be in 1982. The election of the chairman shall be by an at-large vote of the electorate of the county and shall be held in the same manner and at the same time as the election of other county governing body members. The term of office of the full-time chairman shall be for four years, beginning on the first Monday after the second Tuesday in January following his election, and until his successor has been elected and qualified.

**Section 4.** The provisions of this act shall become operative only if approved by a majority of the electors of Shelby County voting in a referendum to be held at the time of the next county primary election. The county governing body of Shelby County shall order and provide for the holding of the referendum on such date. On the ballots to be used at the election, the question shall be stated substantially as follows: "Should Shelby County have a full-time chairman of the county governing body elected at large to serve as chairman in place of the county probate judge? Yes ( ) No ( )." If a majority of the votes cast in the election are "Yes," then the provisions of this act shall become operative immediately. If the majority are "No," this act shall have no further effect. The results of the election shall be certified by the probate judge to the Secretary of State, who shall make a permanent record thereof.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

## AN ACT

To amend §§ 24-5-2, 24-5-3, 24-5-4, 24-5-5, 24-5-6, 24-5-7, 24-5-10, and 24-5-14, Code of Alabama 1975, which sections are part of the Uniform Standards for Mobile Homes Act, so as to establish the Federal Mobile Home Construction or Safety Standards of the National Mobile Home Construction and Safety Standards Act of 1974 as the applicable standard for mobile homes sold in this state, to repeal existing standards which are now in conflict with Federal standards, to repeal § 24-5-8, Code of Alabama relating to reciprocity of inspections, to repeal requirements that mobile home dealers and manufacturers purchase a bond as a prerequisite for obtaining a license under the Mobile Home Standards Act; to impose a civil or criminal misdemeanor penalty for violation of the Act; to provide that the Fire Marshal may enter into contracts with any private or public agency charged with the enforcement of the Federal regulations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 24-5-2, Code of Alabama 1975 is amended to read as follows:

“Section 24-5-2. Definitions.

Unless clearly indicated otherwise by the context, the following words when used in the Act, for purposes of this Act, shall have the meanings respectively ascribed to them in this section:

(1) “Mobile Home” means a structure, transportable in one or more sections, which when erected on site measures eight body feet or more in width and thirty-two body feet or more in length, built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. A mobile home can be new. A new mobile home is a mobile home which is still in the possession of the manufacturer, dealer or first purchaser of the mobile home.

(2) “Uniform Standards Code” means the Federal Mobile Home Construction or Safety Standards promulgated pursuant to Section 604 of the National Mobile Home Construction and Safety Standards Act of 1974 published in Public Law 93-383 U.S.C. 5401 et. seq. as amended from time to time.

(3) “Mobile home construction” means all activities relating to the assembly and manufacture of a mobile home including but not limited to those relating to durability, quality and safety.

(4) “Label” means the approved form of certification by the manufacturer under the provisions of the National Mobile Home Construction and Safety Standards Act of 1974 that is permanently affixed to each mobile home or transportable section thereof, and

which serves as the certification by the manufacturer of conformance with the applicable Federal mobile home construction and safety standards in effect the date of manufacture.

(5) "Manufacturer" means any person who manufactures mobile homes and shall include the "manufacturer", "factory branch", or "factory representative".

(6) "Dealer" means any person other than a manufacturer "as defined" who is duly licensed to sell mobile homes in this state.

(7) "Person" means a person, firm, partnership, company, corporation, or association engaged in manufacturing or selling of mobile homes.

(8) "Marshal" means the Alabama State Fire Marshal.

(9) "Department" means the office of the Alabama State Fire Marshal.

(10) "State Fire Marshals Fund" means that fund established to provide necessary revenue for the enforcement of this Act."

**Section 2.** Section 24-5-3, Code of Alabama 1975 is amended to read as follows:

"Section 24-5-3. Establishment of Uniform Standards.

(a) All construction of mobile homes manufactured after the effective date of this act in this state must meet the standards of the Uniform Standards Code."

**Section 3.** Section 24-5-4, Code of Alabama 1975 is amended to read as follows:

"Section 24-5-4. Inspection or Approval by Marshal and Certification of Manufacturer Prior to Sale or Offer for Sale of New Mobile Home.

(a) No person may sell or offer to sell in the state any new mobile home for use in this state manufactured after the effective date of this Act unless (1) a label of approval has been permanently affixed to the mobile home; and (2) it bears a certification by the manufacturer that the new mobile home to which the label is attached meets or exceeds the Uniform Standards Code."

**Section 4.** Section 24-5-5, Code of Alabama 1975 is amended to read as follows:

"Section 24-5-5. Manufacture of Mobile Homes Not Bearing Label and Certification.

No person may manufacture in this state any mobile home

after the effective date of this Act, unless it bears a label and certification, certifying that the mobile home meets or exceeds the Uniform Standards Code.”

**Section 5.** Section 24-5-6, Code of Alabama 1975 is amended to read as follows:

“Section 24-5-6. Licenses for Sale of Mobile Homes.

(a) Any manufacturer or dealer within or without this state shall apply for a license to sell mobile homes in this state.

(b) Applications will be obtained from and submitted to the Marshal.

(c) The original license fee shall be \$100.00 and the renewal fee shall be \$100.00 per annum. Each sales or manufacturing location shall be required to be licensed at the same rate and basis as others. The license shall be valid from January 1st of each year until December 31st of the year in which it was issued or until revoked as provided in this section.

(d) Any such license may be revoked or suspended by the marshal for the violation of the provisions of this article, or rules and regulations or standards or codes or specifications adopted pursuant hereto. The marshal shall notify the licensee in writing of the reasons why he intends to revoke or suspend the license, and the licensee shall be entitled to a hearing before the marshal within 10 days after receipt of such notice of intention to revoke or suspend. At such hearing the marshal shall consider the circumstances and shall give the licensee reasonable time, but not less than 30 days, to correct the conditions or circumstances that caused the notice of intention to revoke or suspend the license to be given.”

**Section 6.** Section 24-5-7, Code of Alabama 1975 is amended to read as follows:

“Section 24-5-7. Sale of New Mobile Homes Without Labels.

A new mobile home which does not bear the label required by this article shall not be offered for sale by any manufacturer or dealer anywhere within the geographical limits of this state.” (Acts 1971, No. 1938, p. 3129, § 7.)

**Section 7.** Section 24-5-8, Code of Alabama 1975 relating to reciprocity of inspection of mobile homes is hereby repealed.

**Section 8.** Section 24-5-10, Code of Alabama 1975 is amended to read as follows:

“Section 24-5-10. Fees for Licenses and Authorization; State

**Fire Marshal's Fund.**

(a) A license to sell to licensed dealers or to the public of this state shall be for \$100.00 original fee and the renewal fee shall be \$100.00 per annum renewable by the first day of each calendar year.

(b) All fees shall be paid to the State Fire Marshal to provide necessary revenue for the enforcement of this Chapter. All fees collected under the provisions of this Chapter, or otherwise inuring to the credit of the fire marshal, shall be deposited in the State Treasury in a fund to be designated as the "State Fire Marshal's Fund", which fund is hereby established. All balances in said fund in excess of \$50,000.00 at the end of each fiscal year shall be transferred to the State General Fund. The expenses incurred by the State Fire Marshal in carrying out the provisions of this Act, together with the compensation of employees required to enforce this Act, shall be paid from this fund."

**Section 9.** Section 24-5-14, Code of Alabama 1975 is hereby amended to read as follows:

**"Section 24-5-14. Penalties.**

(1) Whoever violates any provision of this Act or any regulation or order issued under the provisions of this Act shall be liable for a civil penalty of not to exceed \$1,000 for each such violation. Each violation of any section of the Act or regulation or order shall constitute a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed \$1,000,000 for any related series of violations occurring within one year from the date of the first violation. Before the Marshal shall impose a civil penalty he shall first advise the violator of his intention to do so and hold a hearing on said violation no sooner than two weeks after notification to the person of the Marshal's intent to impose civil penalties and the indicated violations.

(2) Any individual or a director, officer or agent of a corporation who knowingly and willfully violates any of the provisions set out in Sub-section (1) of this section, in a manner which threatens the health or safety of any purchaser shall be fined not more than \$1,000 or sentenced to the county jail for not more than one year or both.

(3) Any fines collected under the provisions of Subsections (1) and (2) of this section shall be paid into the Fire Marshal's Fund set up by the provisions of this Act."

**Section 10.**

The Fire Marshal shall be authorized to enter into contracts with any private or public agency which is under contract with the United States Department of Housing and Urban Development to provide services in the enforcement of the Uniform Standards Code.

**Section 11. Severability.**

The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-600

H. 802—Johnson (Roy)

**AN ACT**

Relating to Tuscaloosa County; to provide for a uniform compensation schedule for all juvenile probation officers in the Juvenile Court in said county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The compensation of all juvenile probation officers in the Juvenile Court in Tuscaloosa County shall not be less than the compensation of a parole and probation supervisor in the State Board of Pardons and Paroles with comparable years of service and comparable rank and position. The schedule of compensation for such employees shall be as follows:

RANK	COMPENSATION
Chief Probation Officer and/or Director of Juvenile Court Services	Shall be comparable to Parole and Probation Executive
Juvenile Probation Officer III	Shall be comparable with Parole and Probation Supervisor III
Juvenile Probation Officer II	Shall be comparable to Parole and Probation Supervisor II



Juvenile Probation Officer I      Shall be comparable to Parole  
and Probation Supervisor I

**Section 2.** The compensation provided for by this Act shall be paid from any funds available to the governing body of Tuscaloosa County.

**Section 3.** Any person seeking to receive the benefits of this Act must first be certified, and must thereafter continue to be certified, by the Alabama Department of Youth Services.

**Section 4.** Any laws or parts of law in conflict with the provisions of this Act are hereby repealed.

**Section 5.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** This Act shall become effective October 1, 1980.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-601

H. 356—Bedsole, McMillan, Hines,  
McCorquodale

### AN ACT

To prohibit the release of tame turkeys, or any other type of turkeys, into the wild areas of this State; to provide for certain exceptions; and to provide penalties for violation of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It shall be unlawful to release any tame turkey, or any other turkey, whether wild or tame, into any of the wild areas of this State.

**Section 2.** The provisions of this act shall not apply to any turkeys kept by any farmer or homeowner of this State for normal agricultural purposes or for personal consumption.

**Section 3.** Nothing in this act is intended to prohibit the stocking of wild turkeys by authorized personnel of the Department of Conservation and Natural Resources for propagation or research purposes.

**Section 4.** Any person who shall be convicted of violating any provision of this act shall be deemed guilty of a "violation" under the criminal Code of this State and shall be punished as provided for in

said Code.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-602

H. 813—Shoemaker, Dial

### AN ACT

To amend Act No. 247 of the Regular Session of the Legislature of Alabama of 1955 (Ala. Acts 1955, Vol. I, pp. 585-586) providing for a Telephone Revolving Fund in the Department of Finance, Division of Service, to be used to pay for the expenses of administering, maintaining and operating the State Central Telephone System in the City of Montgomery, and the Alabama Centralized Telecommunications System in the State of Alabama and providing that each State department, board, bureau, commission, agency and institution using the aforesaid telephone systems shall pay its pro rata share of the aforesaid expenses.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created in the Department of Finance, Division of Service, a revolving fund to be used for the payment of telephone bills, administration expenses, maintenance expenses and operation expenses for the State departments, boards, bureaus, commissions, agencies and institutions using the State Central Telephone System in the City of Montgomery and the Alabama Centralized Telecommunications System in the State of Alabama.

**Section 2.** The Chief of the Division of Service of the Department of Finance shall make payment for the State departments, boards, bureaus, commissions, agencies and institutions for the expense of maintenance and operation of telephone services and tolls charged to such State departments, boards, bureaus, commissions, agencies and institutions from the revolving fund created herein by proper certification of such amount due thereon in the same manner as other bills and accounts are paid by the Chief of the Division of Service, and he shall render a monthly statement to each such State department, board, bureau, commission, agency or institution for its pro rata share of such administration expense and for such expense for maintenance and operation of the telephone systems and upon receipt of the repayment he shall deposit the same in the State Treasury to the credit of such revolving fund.

**Section 3.** The revolving fund hereby created shall remain in operation from year to year and shall be used for the purpose of providing State Central Telecommunications System service in the City of Montgomery and Alabama Centralized Telecommunications System Service in the State of Alabama for the State departments, boards, bureaus, commissions, agencies and institutions. The funds provided herein shall not revert at the end of any fiscal year and the reimbursements from the State department, board, bureau, commission, institution or agency to the revolving fund shall be made monthly upon receipt of the proper invoice therefor from the Division of Service.

**Section 4.** This Act shall become effective on October 1, 1980.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-603

H. 814—Shoemaker, Dial

### AN ACT

To amend Act No. 574 of the 1957 Regular Session of the Legislature of Alabama (Ala. Acts, 1957, Vol. II, pp. 797-798) to authorize the Department of Finance, Division of Service Mail and Supply Room Revolving Fund to be used to purchase janitorial supplies, to provide that said revolving fund shall be reimbursed for the reasonable expenses incurred in administering and handling said supplies and postage, and to increase the appropriation to said revolving fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created in the Department of Finance, Division of Service, a Revolving Fund for use by the Mail and Supply Room for the purchase of office supplies and materials, janitorial supplies, and other articles of use or necessity, and postage and stamps for use in the offices of all State departments, boards, bureaus, commissions and agencies.

**Section 2.** There is hereby appropriated to said Revolving Fund herein provided the sum of \$325,000 which is the current balance now used by said Department of Finance, Division of Service Mail and Supply Room for purchasing said office supplies, janitorial supplies, and postage and stamps for said State departments.

**Section 3.** That the said \$325,000 herein appropriated shall be designated as the Division of Service Mail and Supply Room Revolving Fund and shall be used only for the purpose of providing office supplies and materials and janitorial supplies and materials

maintained in inventory in said Supply Rooms, and the postage and stamps provided in the Mail Room, and the reasonable expense incurred in administering and handling said supplies and postage, and the said Revolving Fund shall be reimbursed by payments made thereto for the said expenses incurred and for such materials, supplies, postage and stamps as used and consumed by said departments upon proper billing therefor by the Chief of the Division of Service of the Department of Finance.

**Section 4.** The Revolving Fund hereby created shall remain in operation from year to year and shall be used solely and exclusively for the purpose of providing a method of payment for supplies and materials, postage, stamps and reasonable administrative expenses by the Department of Finance, Division of Service. The funds provided herein shall not revert at the end of any fiscal year and the reimbursements from the State departments, boards, bureaus, commissions, and agencies and offices to the Revolving Fund shall be made monthly upon the receipt of the proper invoice therefor from the Division of Service.

**Section 5.** This Act shall become effective on October 1, 1980.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-604

H. 88—McKee

### AN ACT

This bill amends Section 22-9-8, Code of Alabama, 1975, to increase fees for certified copies of vital statistics records and for presumptive or special searches of the files for various information.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 22-9-8, Code of Alabama, 1975, is hereby amended to read as follows:

“Section 22-9-8. Certified copies or authentication of registered records; fees thereof.

(a) The state registrar of vital statistics shall, upon request of any person having a proper interest therein, make a thorough search and supply a certified copy of authentication, under seal of his office, of any record registered and in his custody under provisions of this chapter. A report of a search, a copy or extract made from any record registered under this chapter, when authenticated by the state registrar, shall be prima facie evidence

of the facts therein stated; provided, that records of birth and death shall not be disclosed except as authorized by the state board of health.

(b) The state registrar, as agent for the state board of health, shall be entitled to fees as follows:

(1) The fee shall be \$5.00 for making any search of the records and reporting the findings or for making one certified copy of the record if found; provided, that the fee shall be \$2.00 each for additional copies of the same record ordered at the same time.

(2) The fee shall be \$8.00 each for issuing an authenticated or exemplified copy, said amount to include the certification fee of the secretary of state.

(3) The fee shall be \$5.00 for each hour or fraction thereof required to complete a presumptive or special search and make a report of findings; provided, that the state registrar may, at his discretion, decline to make any such search.

(4) Any expense and cost incurred for furnishing vital statistics and tabulations shall be repaid in the same manner as other fees for services specified in this chapter.

(5) The fee shall be \$8.00 each for the preparation of and issuing authenticated copy of an amendment to an original record, a new birth certificate after a legitimation or adoption procedure and preparation of a delayed certificate.

(c) Applications for searches, copies, authentications and reports shall be accompanied by the prescribed fee; provided, that payments for special or presumptive searches, reports and contract services may be postponed until the amount to be paid is determined. No fee received under this section shall be refunded.

(d) The state registrar, as agent for the state board of health, shall cause a complete and correct account to be kept of all moneys received under this section and shall cause said sums to be deposited with the state treasurer, who shall keep said deposits in a special account, to be known as the vital statistics fund.

(e) The county health officer of any county that employs a full-time local registrar of vital statistics, compensated by salary, may, upon request, issue a copy or extract from any original certificate of birth or death while said certificate is in his custody or a copy of the copy and may collect a fee of \$5.00 for each such copy or extract issued; provided, that the fee shall be \$2.00 each for additional copies of the same record ordered at the same time.

(f) The county health officer shall cause a complete and correct account to be kept of all fees received by him under this section and shall remit said fees to the treasurer of his county board of health or like official for custody subject to disbursement in the interest of health services in his county.

(g) In addition, for a county health office to issue copies, the county health officer shall submit to the state board of health a detailed procedure for being designated as a copy-issuing center. The state registrar shall provide necessary local staff training and shall make appropriate recommendations to the state board of health before a county is designated a copy-issuing center."

**Section 2.** This act is intended to relate entirely to the Alabama vital statistics system and is not intended to have effect on any other laws or parts of laws except to the extent in conflict with the positive provisions hereof.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-605

H. 669—Smith (C)

### AN ACT

To amend Section 13, paragraph 52 of Title 16, Code of Alabama, 1975 to provide that a minimum of 75 days shall constitute the first four scholastic months.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 13, paragraph 52 of Title 16, Code of Alabama, 1975 is hereby amended to read as follows:

In determining the number of teacher units to be allowed a county or an independent city for the purpose of apportioning the minimum program fund, one teacher unit shall be allowed for each 28 pupils in average daily attendance, during the first four scholastic months of the preceding year in all the public schools of the county, including schools in the independent cities therein. A minimum of 75 days shall constitute the first four scholastic

months. Those systems which show an increase in average daily attendance during the first four scholastic months of the current year may be allowed one additional teacher for each 28 pupils in such increase in average daily attendance during the first four months for such current year.

**Section 2.** All laws or parts of laws that conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-606

H.J.R. 325—Smith (C)

## HOUSE JOINT RESOLUTION

### COMMENDING THE UNIVERSITY OF MONTEVALLO FOR INITIATING A MODEL ENERGY CONSERVATION PROGRAM.

WHEREAS, The University of Montevallo initiated a comprehensive energy conservation program three years ago, which, between January, 1977 and December 1979, resulted in a decrease of electrical consumption by 22% and a real savings of more than \$46,000 despite dramatic price increases in electricity during the same period; and

WHEREAS, the UM Energy Conservation Program has received national recognition, as well as an award from Governor James, and has been further recognized as a Model program by the Alabama Commission on Higher Education in a resolution adopted by that body; and

WHEREAS, UM staff members, Mrs. Jeanetta Keller and Mr. Holland Floyd have been primarily responsible for the Program, working with an Energy Committee composed of faculty, staff and students; and

WHEREAS, the success of this program resulted in the University's receiving a Department of Housing and Urban Development loan of more than one million dollars, which will finance the conversion of UM's present heating and cooling equipment to a multi-fuel capability, which will use wood by-

products as a primary fuel;

NOW, THEREFORE, BE IT RESOLVED that the 1980 Alabama Legislature commends the University of Montevallo and its students, faculty, staff and Trustees for their efforts in developing a Model Energy Conservation Program.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-607

H.J.R. 345—Ray

### HOUSE JOINT RESOLUTION

COMMENDING THE TROY STATE BASEBALL TEAM  
ON ITS OUTSTANDING SEASON.

WHEREAS, The Legislature of Alabama takes great pleasure in congratulating the Troy State University Trojans and their head coach Chase Riddle on winning the National Collegiate Athletic Association Division II Central Region Championship on Sunday, May 18, 1980; and

WHEREAS, these young men of Troy swept a do-or-die double-header from Bellarmine College of Louisville, Kentucky to win the double elimination tournament held at Troy, Alabama; and

WHEREAS, the Trojans, by virtue of their decisive victory will join five other regional winners in the NCAA Division II World Series in Riverside, California starting May 24, 1980; and

WHEREAS, Troy State, which won the Gulf South Conference title for the first time in the school's history this season, will carry an impressive 28-10 record into the national tournament at Riverside; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend the Troy State Trojans and their head coach Chase Riddle for their outstanding achievement.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the baseball team, the President of Troy State, Dr. Ralph W. Adams, The Athletic Director, Mr. Robert Earl Stewart and Coach Charles Riddle so that they may know of our great pride in their extraordinary accomplishment.

BE IT FURTHER RESOLVED, That we wish them



continued success in the National Tournament.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-608

H. 390—Howard, Boles

### AN ACT

To provide a supplemental salary for the elected deputy circuit clerk serving the Bessemer Cut-Off Division of the Tenth Judicial Circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to any salary paid by the state, the elected circuit clerk serving the Bessemer Cut-Off Division of the Tenth Judicial Circuit shall be paid a supplemental salary from the county at the rate of Seven Thousand Five Hundred Dollars (\$7,500) per annum. The County Commission shall pay such supplemental salary in equal biweekly installments from the general fund of the county.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective upon its adoption and approval by the Governor or upon its otherwise becoming law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-609

H. 520—Seibels

### AN ACT

Relating to Jefferson County; permitting qualified organizations to operate bingo games within the county; providing for the regulation, permit granting and revocation and supervision of such bingo games; providing for a tax exemption; providing for penalties; providing for a referendum of the voters of this county on the question of whether the act will become effective in the county unless the voters thereof approve the constitutional amendment; and providing that the act shall become effective upon the adoption of an amendment to the Constitution of Alabama empowering the Legislature to authorize bingo within Jefferson County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Short Title. This act shall be known and may be cited as the "Jefferson County Bingo Act".

**Section 2. Definitions.** As used in this act:

(1) "Bingo" means that specific kind of game commonly known as bingo in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.

(2) Chief of Police means the Chief of Police of any municipality electing to establish a 'Bingo' ordinance parallel, or similar, to this Act to apply with such municipality.

(2) "Sheriff" means the sheriff of Jefferson County.

(3) "Equipment" means the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, and the board or signs, however operated, used to announce or display the numbers or designations as they are drawn. All equipment shall be stamped with name of organization and used only on that organization's premises.

(4) "Location" means a single building, hall, enclosure, or outdoor area used for the purpose of playing bingo pursuant to a permit issued under this act. Bingo games shall be held only on the premises wholly owned by a qualified permitholder as defined in Section 2, subsection (6), with exception to rental agreement in Section 9 (c) of this act.

(5) "Special occasion" means a single gathering or session at which a series of successive bingo games authorized by this act are played pursuant to a special permit issued under section 6.

(6) "Qualified organization" means a bona fide religious, educational, service, senior citizens, fraternal, or veterans' organization which operates without profit to its members and which either has been in existence continuously as such an organization for a period of 2 years or is exempt from taxation by virtue of having been classified as a tax exempt nonprofit organization by the Internal Revenue Service, United States Government.

(7) "Religious organization" means an organization, church, body of communicants, or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship, and religious observances; or any society, not for pecuniary profit, of individuals united for religious purposes at a definite place; or a church related private school, not for pecuniary profit.

(8) "Education organization" means an organization within this state, not for pecuniary profit, whose primary purpose is education in nature and designed to develop the capabilities of individuals by instruction in any public or private elementary or secondary school, or any private college, not for pecuniary profit, and approved by the State Department of Education.

(9) "Service organization" means a branch, lodge, or chapter of a national or state organization, not for pecuniary profit, which is authorized by its written constitution, charter, articles of incorporation, or by-laws to engage in a fraternal, civic, or service purpose within the state; and a local civic organization, not for pecuniary profit and not affiliated with a state or national organization, which is recognized by resolution adopted by the city in which the organization conducts its principal activities, whose constitution, charter, articles of incorporation, or by-laws contain a provision for the perpetuation of the organization as a nonprofit organization whose entire assets are pledged to charitable purposes, and whose constitutions, charter, articles of incorporation, or by-laws, contain a provision that all assets, real property, and personal property shall revert to the benefit of the city government upon dissolution of the organization.

(10) "Senior citizens organization" means an organization within this state, not for pecuniary profit, which consists of at least 15 members who are 60 years of age or older and exists for their mutual support and advancing the causes of elderly or retired persons.

(11) "Fraternal organization" means an organization within this state, except college fraternities or sororities, not for pecuniary profit, which is a branch, lodge, or chapter of a national or state organization and exists for the common business or other interests of its members.

(12) "Veterans' organization" means an organization within this state, or a branch, or lodge, or chapter within this state of a state organization or of a national organization chartered by the Congress of the United States, not for pecuniary profit, the membership of which consists of individuals who were or are members of the armed services or forces of the United States.

(13) "Permitholder" means a qualified organization issued a permit pursuant to this act.

(14) "Member" means an individual who qualified for membership in a qualified organization pursuant to its by-laws, articles of incorporation, charter, or other legal entity.

(15) "Person" means a natural person, firm, association, corporation, or other legal entity.

**Section 3. Operation of Bingo Games; Permit Required.** (a) Any provisions of the law to the contrary notwithstanding, no qualified organization shall be permitted to operate a bingo game until the sheriff issues a permit to the organization authorizing it to do so. In the event of any controversy concerning whether or not certain activity constitutes bingo for which a permit may be issued, the decision of the sheriff shall control. The permit described in this law is in addition to and not in lieu of any other permits or licenses which may be required by the county or any political subdivision thereof, and no bingo game shall be operated until such time as all requisite permits and licenses have been obtained, including any permit that may be required by any municipality having jurisdiction over the place where the bingo is proposed to be played. A permitholder may hold only one permit and that permit is valid for only one location. A permit is not assignable or transferable.

(b) Any municipality wholly or partially within Jefferson County may elect to establish a Bingo control ordinance parallel to and similar to this Act and containing the same restrictions and controls as specified herein, to be administered by the Chief of Police of such municipality who shall, in such event, if provided for in the municipal ordinance, exercise the same powers and duties with respect to games of Bingo as are provided herein to be exercised by the Sheriff, and in such event the Chief of Police shall be the primary, but not exclusive, enforcement officer to assure enforcement of the regulation of such games within the boundaries of such municipalities as herein provided. Any ordinance so adopted by such a municipality shall be at least as restrictive of the game of Bingo as this Act and no person, organization, or other legal entity who, or which, would not be so authorized hereunder shall be allowed to conduct Bingo games under such municipal ordinances. Any fees for permits provided for in ordinances so adopted by a municipality shall be in lieu of the permit fees provided for otherwise in this Act.

**Section 4. Application for Permit to Conduct Bingo, Submission, Form, Contents.** Any qualified organization desiring to obtain a permit to operate bingo games shall make application to the sheriff on forms prescribed by the sheriff and shall pay an annual fee of \$150.00. No permit shall be issued to any qualified organization unless such organization has been in existence for 24 months immediately prior to the issuance of the permit. Such permit will expire at midnight on September 30th,

following the granting of such permit. Renewal application for each calendar year shall be filed with the sheriff prior to October 1st of each year and shall be on a form prescribed by the sheriff. Each application for a permit and each application for renewal of a permit shall contain the following information:

(1) The name and home address of the applicant and, if the applicant is a corporation, association or other similar legal entity, the names and home addresses of each of the officers of the organization as well as the names and addresses of the directors, or other persons similarly situated, of the organization.

(2) The names and home addresses of each of the persons who will be operating or promoting the bingo game.

(3) The names and home addresses of any persons, organizations or other legal entities that will act as surety for the applicant, or to whom the applicant is financially indebted, or to whom any financial obligation is owed by the applicant.

(4) The location at which the applicant will conduct the bingo games.

(5) A statement showing the convictions, if any, for criminal offenses, other than minor traffic offenses, of each of the persons listed in 1, 2 and 3 above.

(6) Any other necessary and reasonable information which the sheriff may require.

The sheriff shall refuse to grant a bingo permit to any applicant who fails to fully provide the information required by this section.

**Section 5. Contents and Display of Permits.** (a) Each bingo permit shall contain the name and address of the permitholder, the location at which the permitholder is permitted to conduct bingo and the days of the week on which the permitholder is permitted to conduct bingo.

(2) The bingo permitholder shall display the permit conspicuously at the location where bingo is being conducted at all times during the conduct of the games.

**Section 6. Special Permit, Application, Fee, Grounds for Issuance; Contents, Term, Number, Transfer.** (1) Upon special application submitted by a qualified organization licensed pursuant to section 4 and upon the applicant's payment of a fee of \$50.00 to the sheriff, the sheriff may issue a special permit for conducting bingo at locations and on days other than those set forth in its annual permit.

(2) A qualified organization which does not hold a permit pursuant to section 4 may apply for a special permit for conducting bingo at a designated location for a special occasion. Such an applicant shall submit to the sheriff a written application prepared in accordance with and on a form prescribed by rule of the sheriff. The application shall include the information required by subsection 1 of section 4, except that the applicant shall indicate the day or days on which the applicant will conduct bingo for the special occasion. Upon a determination by the sheriff that the applicant is a qualified organization and is not ineligible pursuant to section 18 and upon the applicant's payment of the fee required under this subsection to the Department of Revenue, the sheriff may issue a special permit. If the applicant will conduct bingo on only 1 day under the special permit, the fee shall be \$25.00. If the applicant will conduct bingo on more than 1 day under the special permit, the fee shall be \$50.00.

(3) A special permit shall contain the name and address of the permitholder and shall specify the location at which the permitholder may conduct bingo, the days not exceeding 2 consecutive days on which the permitholder may conduct bingo, and the number of bingo games which the permitholder may conduct for the special occasion.

(4) A qualified organization licensed pursuant to subsection 2 of section 6 shall not be issued more than 2 special permits in any 1 year period. A special permit is not assignable or transferable.

**Section 7. Certain Contracts Activities Prohibited; Special Requirements.** (1) It is the intention of the Legislature that only qualified organizations which are properly issued permits pursuant to this law shall be allowed to operate bingo games.

(2) A qualified organization shall not lend its name or allow its identity to be used by any individual, firm, association or corporation in the operating or promoting of a bingo game in which said qualified organization is not directly and solely operating said bingo game. All equipment shall be stamped or clearly marked in letters no less than one-half inch in height and one-fourth inch in width (except for the letter "I") with the name of the organization using same, and it shall be unlawful to use equipment marked with the name of another organization.

(3) It shall be unlawful for two or more qualified organizations to operate bingo games jointly or to operate bingo games upon the same premises during any 18 hour period.

(40) It shall be unlawful for two or more qualified

organizations to pyramid the valuation of prizes in such a manner as to exceed the limits in cash or gifts of equivalent value as provided in section 10. The term "equivalent value" shall mean the fair market value of the gift on the date the gift is given as the prize in a bingo game.

(5) No person or organization by whatever name or composition thereof shall take any salary, expense money or fees for the operation of any bingo game, except that not more than \$20.00 per day may be paid to one or more individuals for assisting in the conduct of such games on such day.

(6) No person shall pay consulting fees to any person for any services performed in relation to the operation or conduct of a bingo game.

**Section 8. Fee Proceeds, Disposition; Expenses.** All fees collected by the sheriff under this act shall be paid into the county general fund, and all necessary expenses incurred by the sheriff in the administration and enforcement of this act shall be financed from the county general fund.

**Section 9. Proceeds of Bingo Games, Disposition.** The entire net proceeds of a bingo game shall be devoted exclusively to the lawful purposes of the permitholder. An item of expense shall not be incurred or paid in connection with the holding, operating, or conducting of bingo except the following bona fide expenses in reasonable amounts:

(a) The purchase or rental of equipment necessary for conducting bingo and payment of services reasonably necessary for the repair of equipment.

(b) Cash prizes or the purchase of prizes of merchandise.

(c) Rental of the location at which bingo is conducted. When premises owned by permitholder is destroyed by a natural disaster or any act not the fault of the tenant or property owner, than the premises may be rented for only 1 year.

(d) Utilities.

(e) Janitorial services.

(f) The fee required for issuance or reissuance of a permit to conduct bingo.

(g) Other reasonable expenses incurred by the permitholder, not inconsistent with this act, as permitted by rule of the sheriff.

**Section 10. Management and Operation of Bingo, Persons**

Eligible, Compensation, Equipment, Prizes, Advertisement.  
 (1) A person other than a bona fide member of the permitholder may not participate in the management of bingo. Persons other than bona fide members of the permitholder may participate in the operation of bingo as provided by rule of the sheriff.

(2) A person may not receive any commission, salary, pay, profit, or wage for participating in the management or operation of bingo except as provided by rule of the sheriff.

(3) Bingo may not be conducted with any equipment which is not owned, being purchased, or being rented at a reasonable rate by the permitholder.

(4) Prizes given by any organization for the playing of bingo games shall not exceed \$1,200.00 in cash or gifts of equivalent value during any bingo session or \$2,400.00 in cash or gifts of equivalent value during any calendar week.

(5) A permitholder may not advertise bingo except to the extent and in the manner authorized by rule of the sheriff. If the sheriff allows a permitholder to advertise bingo, the permitholder shall indicate in the advertisement the purposes for which the net proceeds will be used by the permitholder.

(6) A permitholder shall display its bingo license conspicuously at the location where the bingo game is conducted.

(7) A permitholder shall conduct bingo games only at the single location specified in the permitholder's application.

(8) A permitholder shall not conduct more than one bingo session during any one calendar day and no more than two bingo sessions during any one calendar week and no session shall exceed 5 hours.

**Section 11. Age Restriction to Play or Conduct Bingo Games.** No person under the age of 18 years shall be permitted to play any game or games of bingo conducted pursuant to any permit issued under this law. No person under the age of 18 years shall be permitted to conduct or assist in the conduct of any game of bingo conducted pursuant to any permit issued this law.

**Section 12. Taxation, Prize.** State or local taxes of any kind whatsoever shall not be imposed upon the recipient of any prize, whether merchandise or money, awarded by a permitholder during a bingo game conducted in conformity with this act.

**Section 13. Enforcement and Supervision of Administration of Act, Personnel, Rules.** (1) The sheriff shall enforce and



supervise the administration of this act. The sheriff shall employ personnel as necessary to implement this act.

(2) The sheriff by rule shall regulate the holding, operation, or conducting of bingo, including the following:

- (a) The method of play and selection of winners.
- (b) The type of equipment to be used.

**Section 14. Rules and Regulations.** The sheriff is hereby authorized to promulgate rules and regulations which he deems necessary for the proper administration and enforcement of the provisions of this law.

**Section 15. Records of Permitholders; Financial Statements; Inspection and Location of Bingo.** (1) Each permitholder shall maintain the following records for at least 3 years from the date on which the last bingo game is conducted:

- (a) An itemized list of the gross receipts for each session.

(b) An itemized list of all expenses, other than prizes paid during a bingo session, including the name of each person to whom the expenses are paid and a receipt for all of said expenses. The record shall be open to inspection by a duly authorized employee of the sheriff during reasonable business hours. Upon the request of the sheriff, the state auditor or a certified public accountant firm appointed by him shall examine and conduct a postaudit of a permitholder's records, accounts, and transactions related to the operation of bingo.

(2) On or before April 15th in each year, each permitholder shall file with the sheriff a financial statement of receipts and expenses relating to the operation of bingo games in the previous calendar year. Said report shall be in addition to any and all other reports required by law.

(3) The location at which bingo is being conducted or at which an applicant or permitholder intends to conduct bingo shall be open to inspection at all times by a duly authorized employee of the sheriff or by the state police or a peace officer of a political subdivision of the state.

**Section 16. Suspension or Revocation of Permits.** The sheriff may suspend or revoke any permit issued pursuant to this act if the permitholder or any officer, director, agent, member or employee of the permitholder violates this act or rule promulgated hereunder. Appeal to the governing body of the county from an adverse ruling of the sheriff shall be available to the permitholder,

and, thereafter, appeal to the Circuit Court from an adverse ruling of the governing body of the county shall also be available to the permitholder.

**Section 17. Violation, Offense.** Any person who violates this act shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00, and may also be imprisoned in the county jail for not more than 6 months.

**Section 18. Issuance or Reissuance of Permit After Revocation, Forfeiture, or Suspension; Grounds for Forfeiture; Return of Permit Upon Suspension, Revocation, or Forfeiture; Effect of Suspension, Revocation or Forfeiture.** (1) A permitholder whose permit is revoked in consequence of a violation of this act or a rule promulgated under this act is ineligible to apply for a permit for a period of 1 year after the revocation.

(2) A person convicted of an offense under section 17 or any other gambling offense is ineligible to serve as an officer of a permitholder or to participate in conducting bingo for a period of 1 year after the conviction becomes final. If the person is licensed pursuant to this act, the person shall forfeit the permit and is ineligible to apply for the issuance or reissuance of the permit for a period of 1 year thereafter.

(3) If the permit is suspended, in addition to other penalties which may be imposed, the sheriff may declare the violator ineligible to conduct a bingo game or apply for a permit under this act for a period not exceeding 1 year.

(4) The permitholder shall return its permit to the sheriff on or before the effective date of a suspension, revocation, or forfeiture. Whether returned or not, the permit shall not be valid beyond the effective date of the suspension, revocation, or forfeiture.

**Section 19. Provision for Calling and Providing for Holding a Referendum.** If the vote on the constitutional amendment excepting bingo from the constitutional prohibition against lotteries in Section 65 of the Constitution of 1901 is approved by a majority of the voters casting ballots thereon in Jefferson County, it shall not be necessary for an election to be held under this act to determine whether the procedures of this act shall be operative in said county. If the amendment passes state-wide, but is rejected in Jefferson County, this act shall not be effective until a favorable vote is given by the voters of the county thereon. The governing body of Jefferson County may call and provide for holding a referendum for the purpose of determining if this act shall become operative. Said election shall be held and the officers appointed to

hold same in the manner provided by law for holding other county elections in the county and the returns thereof tabulated and results certified as provided by law for such elections. Said election shall be held not sooner than 6 months following the election on the constitutional amendment and notice thereof shall be given by publication at least 3 weeks before the date of said election in a newspaper in the county. The costs of said election, including the cost of notice by publication, shall be paid out of the general funds of the county. On the ballot to be used for such election, the question shall be in the following form:

“Do you favor the operation of bingo games by qualified organizations for charitable purposes in Jefferson County?” If a majority of the votes cast in the referendum are “Yes”, bingo games shall be legal within Jefferson County, and this act shall become operative therein; if the majority of the votes cast in the election are “No”, this act shall have no further effect until if, in a subsequent referendum, a majority of the votes cast are “Yes”, provided that two years have elapsed between the dates of such elections.

**Section 20.** Applicability of Other Laws, Penalties or Disabilities. Any other law providing a penalty or disability upon a person who conducts or participates in bingo games, who possesses equipment used in conducting bingo, who permits bingo to be conducted on his premises, or who does other acts in connection with bingo shall not apply to such conduct when done pursuant to this act or rules promulgated under this act.

**Section 21.** Severability. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 22.** Conflict of Laws. All laws or parts of laws which conflict with this act are hereby repealed.

**Section 23.** Effective and Operative Dates. This act shall become effective upon the adoption of an amendment to the Constitution of Alabama of 1901 empowering the Legislature to authorize certain lotteries within Jefferson County.

Approved May 28, 1980

Time: 4:00 P.M.

## AN ACT

Relating to Jefferson County; providing that any conveyance of property required to be recorded in the office of the probate judge must include the name and address of the person to receive the tax notice.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Jefferson County, any conveyance of property that is required to be recorded in the office of the probate judge must state the full legal name and complete address of the person to receive the tax notice.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-611

H. 1108—Barton, Johnson (Roy), Mitchell

## AN ACT

Relating to Tuscaloosa County to amend Sections 2, 18, 23, 25, and 29, of Act No. 328, H. 854 (Acts 1959, p. 907, Vol. 2), as last amended, which bill relates to the Firemen's and Policemen's Pension and Relief Fund for the City of Tuscaloosa, Alabama, fixing maximum benefits for firemen or policemen retiring for disability arising as a result of service in the department, fixing maximum benefits to be paid to dependents of members, increasing the limitation on the amount of pension benefits to be paid under the act, providing for the manner of determining the pension and providing that no pension presently being paid shall be decreased by the provisions of this act, and defining the term "salary". Further, to repeal Section 27 of Act 328, H. 854 (Acts 1959, p. 907, Vol. 2) so as to delete the provision that pensions shall increase or decrease in accordance with the increase or decrease of salaries of active members of the department.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), as last amended, is hereby amended to read as follows:

"Section 2. Definitions.

The following words, terms, and phrases wherever used in this Act shall have the meanings respectively ascribed to them in this section unless the context plainly indicates a contrary meaning: "City" or "such City" or "the city" means the City of Tuscaloosa, Alabama. "Fireman" means any regular full time member of the fire department of such city, exclusive of all irregular, extra,

special, or part time members of such department. "Policeman" means any regular full time members of the police department of such city, exclusive of all irregular, extra, special, or part time members of such department. The term "Chairman of the Commission Board" and the term "Mayor" have reference to the officer of the City whose duties are those of chief executive of such city. The term "Commissioner of Public Safety" has reference to the commissioner who has charge of the fire and police departments of such city. The term "Board" and the term "Board of Trustees" means the Board of Trustees of the Firemen's and Policemen's Pension and Relief Fund created under this Act. The term "Fund", "the Fund", "such Fund" and similar expressions, has reference to the Firemen's and Policemen's Pension and Relief Fund created under the provisions of this Act. The term "salary" shall refer to the base salary, of the member's classification, and shall not include overtime pay, bonuses, job assignments, or other extra pay or benefits. Words used in this Act in the past or present tense include the future as well as the past and present, and words used in the singular include the plural, and the plural the singular. Words in the masculine gender include the feminine."

**Section 2.** Section 18 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), as last amended, is hereby amended to read as follows:

**"Section 18. Pension Benefits to be Paid on Retirement.**

Subject to the general limitations set forth in Section 29 hereof and subject to any reductions in benefits that might be required by the provisions of Section 28 hereof, when any fireman or policeman shall be retired and placed upon the pension roll (except when retired under Section 23 hereof), the monthly pension which he shall be paid shall be a sum equal to two and six-tenths percentum (2.6%) of the amount of his "pension base" multiplied by the number of entire years he has contributed to the Firemen's and Policemen's Pension and Relief Fund and has served in the department of which he was a member. The term "pension base", as used herein, means the monthly salary at the time of retirement, unless: (a) he has been demoted in the five (5) years immediately preceding his retirement, in which case his "pension base shall be the average monthly salary for the five (5) year period immediately preceding retirement; (b) his salary at the time of retirement exceeds one hundred and fifteen percent (115%) of his average monthly salary for the five (5) years immediately preceding his retirement, in which case his "pension base" shall be one hundred and fifteen percent (115%) of his average monthly salary for the five (5) year period immediately preceding his retirement."

**Section 3.** Section 23 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), as last amended, is hereby amended to read as follows:

“Section 23. Monthly Benefits for Temporary Disability Arising as a Result of Service in Department; Retirement for Permanent Disability.

Whenever the Board of Trustees shall determine that any fireman or policeman has become temporarily disabled, mentally or physically, for service in the department of which he is a member, and that such disability arose from any injury received or accident occurring while engaged in the performance of his duty or is otherwise a direct result of his service in such department the Board of Trustees shall order that such disabled fireman or policeman be paid monthly out of such funds, during the period of disability, a sum equal to sixty-five percent (65%) of the monthly compensation paid such fireman or policeman as salary at the time of his having become so disabled; provided, that any benefits payable under this section shall be reduced by an amount equal to the amount, if any, which the beneficiary shall receive from such city as salary. The Board of Trustees shall be the sole judge of the extent and cause of any such disability and of the time when such disability has ceased to exist and the Board's determination thereof shall be final. Whenever the Board of Trustees shall determine that such disability is or has become permanent, they shall retire such disabled person and place him upon the Pension Roll and pay him an initial monthly pension equal to sixty-five percent (65%) of the monthly compensation paid such fireman or policeman at the time of his having become so disabled. It is provided, however, that the minimum monthly benefit, payable hereunder for permanent disability, to those persons who have contributed to the Fund for fifteen (15) years, but less than twenty (20) years, shall be three hundred fifty dollars (\$350.00), and the minimum monthly benefit to those persons who have contributed to the Fund for twenty (20) years or more shall be four hundred dollars (\$400.00), and that the maximum benefit payable hereunder for permanent disability in any case shall be five hundred seventy dollars (\$570.00). Benefits under this section shall not be limited by Section 29 hereof.

**Section 4.** Section 25 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), as last amended, is hereby amended to read as follows:

“Section 25. Payments to Dependents of Member.

For the purpose of this section, children of any policeman or fireman who are under the age of eighteen years (18 yrs.), and also

the widow of any policeman or fireman while unmarried shall be conclusively presumed to be entirely dependent upon such fireman or policeman.

If any fireman or policeman shall, while in the performance of his duty, be killed, or die as a result of any injury received in the line of his duty, or shall die from any cause whatsoever as the result of his service in such department and while in such service; or after having served in such department for more than ten years (10 yrs.), the last five years (5 yrs.) of which were consecutive shall die from any cause while in the service or on the retired or disabled list, and shall leave a surviving spouse (if retired, to whom he was married at the time of his retirement) surviving him, and entirely dependent upon him, the Board of Trustees shall direct the payment to such surviving spouse monthly during his or her natural life, and while unmarried and entirely dependent on such payment, a sum equal to twenty-five percent (25%) of such fireman's salary if a fireman, and twenty-five percent (25%) of such policeman's salary if a policeman. If such fireman or policeman leaves surviving him a child or children under eighteen years (18 yrs.) of age, said Board shall direct the payment monthly from such fund to their surviving parent, whether married or unmarried, for their use and benefit, an amount equal to fifteen percent (15%) of such policeman's or fireman's salary at the time of his death for each child under eighteen years (18 yrs.) of age, not to exceed in the aggregate an amount equal to forty-five percent (45%) of such salary, so long as such child or children live with their surviving parent. If such child or children have no surviving parent, or such surviving parent dies during the time such child or children are entitled to such benefit, such sum may be paid by the Board of Trustees to the person having control and custody of such child or children or to such other person as said Board of Trustees may direct, to be expended by such person for the benefit of such child or children as may be prescribed by said Board of Trustees. Should such deceased fireman or policeman leave no surviving spouse or child entitled to benefits as hereinabove set out, but a widowed mother entirely dependent upon him for support, said Board of Trustees shall pay to her monthly during her natural life and so long as she remains unmarried, a sum equal to twenty-five percent (25%) of such fireman's monthly salary, if a fireman, and a sum equal to twenty-five percent (25%) of such policeman's monthly salary, if a policeman. The maximum benefit payable hereunder shall be three hundred and eighty dollars (\$380) per month."

**Section 5.** Section 27 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), as last amended, is hereby repealed.

**Section 6.** Section 29 of Act No. 328, 1959 Regular Session (1959 Acts, p. 907, Vol. 2), is hereby amended to read as follows:

**“Section 29. Limitations on Amount of Pension Benefits.**

Under no circumstances shall any retired fireman or policeman be paid a pension or other benefit in excess of the following:

A. For those persons presently on the retired list, the monthly pension shall not exceed the lessor of (1) or (2) below:

(1) A sum equal to two and six-tenths percentum (2.6%) of the amount of his “pension base” (calculated as of time of retirement in accordance with the provisions of Section 18 as herein amended) multiplied by the number of entire years he has served in the department of which he was a member.

(2) The sum of eight hundred and fifty dollars (\$850); provided, however, the said eight hundred and fifty dollars (\$850) limitation, only with regard to any retired fireman or policeman who has contributed to the Fund for twenty years (20 yrs.) or more, or who has contributed to the Fund for fifteen years (15 yrs.) or more and who has twenty-five years (25 yrs.) or more of service in the department, may be increased (not to exceed the limitation in (1) above) or decreased by the Board of Trustees in such amount as an actuarial study may indicate is justified by the Fund’s condition.

B. For any policeman or fireman retired after the effective date of this Act, the monthly pension shall not exceed the lessor of (1) or (2) below:

(1) A sum equal to two and six-tenths percentum (2.6%) of the amount of his “pension base” at the time of his retirement multiplied by the number of entire years during which the employee has, both, served in the department of which he is a member and has contributed to the Fund.

(2) The sum of eight hundred fifty dollars (\$850); provided, however, that the said eight hundred fifty dollars (\$850) limitation may be increased (not to exceed the limitation in (1) above) or decreased by the Board of Trustees in such amount as an actuarial study may indicate is justified by the Fund’s condition.

Any increase in the eight hundred and fifty dollars (\$850) limitation hereinabove authorized to be made by the Board of Trustees, shall apply equally to paragraphs “A” and “B” above and shall be made by resolution duly spread upon its Minutes, and no



such increase shall be authorized unless and until an actuarial evaluation, made by some person, firm, or corporation experienced and nationally recognized in the field of actuarial evaluation, indicates the financial soundness of such increase. For the advice of the Board, such actuarial evaluation shall be requested at intervals, not exceeding twenty-four months (24 mos.).

C. Based upon an actuarial study as provided above, indicating that the Fund's condition justifies the same, the Board of Trustees may elect to grant a percentum increase of all pensions and benefits payable under this Act. Such percentage increase, if granted, shall apply equally to all pensions and benefits being paid and to be paid under this Act."

D. Provided, however, any person under the coverage of the pension plan who has contributed to the fund for fifteen (15) years or more shall have their benefits increased to not less than \$500.00 monthly effective immediately.

#### **Section 7. Existing Benefits Not to be Lowered.**

Anything in this Act to the contrary notwithstanding, no pension or other benefit calculated and being paid according to Act No. 328 of the 1959 Legislature, as amended, shall be reduced by the provisions of this Act and, in any case where calculations under the provisions of this Act indicate a lesser amount, the pension or other benefit shall be calculated and paid in accordance with the act in force and effect prior to the adoption of the amendment herein.

**Section 8.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-612

H. 1144—Harper, T.

#### **AN ACT**

To amend further Section 1 of Act No. 440, S. 186, Special Session 1966 (Acts 1966, p. 597) relating to the Sheriff's Department and counties having populations of not less than 300,000 nor more than 500,000.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** To amend further Section 1 of Act No. 440, S. 186, Special Session 1966 (Acts 1966, p. 597) relating to the Sheriff's Department and counties having populations of not less than 300,000 nor more than 500,000 is amended further to read as follows:

"Section 1. In all counties having populations of not less than 300,000 nor more than 500,000 according to the last federal decennial census, the chief deputy sheriff shall be paid a salary of not less than Range 41, Step D (\$29,340.00) annually. Said salary to be adjusted at the same time and at the same percentage rate as merit system employees in such county. The chief clerk in the sheriff's department shall be paid a salary of not less than Range 41, Step D (\$29,340.00) annually. Said salary to be adjusted at the same time and at the same percentage rate as merit system employees in such counties. The chief investigator in the sheriff's department shall be paid a salary of not less than Range 37, Step A (\$20,856.00) annually. Said salary to be adjusted at the same time and at the same percentage rate as merit system employees in such counties. The assistant chief deputy in the sheriff's department shall be paid a salary of not less than Range 37, Step A (\$20,856.00) annually. Said salary to be paid at the same time and at the same percentage rate as merit system employees in such counties. The salaries of all the above-listed assistants in the sheriff's department shall be payable in equal monthly installments upon warrants being drawn in the same manner prescribed for payment of compensation of county employees."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-613

H. 1063—McMillan, Penry

### AN ACT

Relating to Baldwin County; levying an additional privilege, license, or excise tax on the sale, distribution, storage, use, or other consumption of cigarettes in the County; providing for the assessment, collection, and distribution of the proceeds of the tax, and of the adoption and promulgation of rules and regulations therefor by the governing body of said County; defining violations of the Act, and prescribing penalties therefor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This Act shall apply in, and only in, Baldwin County, Alabama; it does not alter or repeal any statute, but is in addition to and cumulative of laws now in effect.

**Section 2.** (a) As used in this Act, unless the context requires a different meaning, "person" includes a firm, corporation, club, partnership, company, trustee, agency, or association, or any agent, servant, employee, or officer thereof; "seller" means a person who is engaged in the business of selling, storing, or delivering cigarettes within the County.

(b) The rules of construction and interpretation of statutes contained in Title 1 of the Code of Alabama 1975 shall apply in the construction and interpretation of this Act.

**Section 3.** In addition to all other taxes now imposed by law, every person who sells, stores, or delivers any cigarettes within the county shall pay a license tax to the County, and a license tax is hereby fixed and levied, which license tax shall be two cents (\$0.02) for each package of cigarettes, made of tobacco or any substitute therefor.

**Section 4.** The tax herein levied shall be paid through the use of one stamp as herein provided for. The one stamp shall be used to designate or represent the County license tax, and municipal license or privilege tax, if any is levied by a municipality within the county, collected on the sale of each package of cigarettes. It is intended that this one stamp be used in place of separate stamps for county license taxes and city or town license or privilege taxes. It is further intended that no city may impose or affix an additional stamp or stamps. It being the purpose and intent of this Act that the tax hereby levied is in fact a levy on the ultimate consumer or user with the wholesaler, distributor, jobber or retail dealer acting merely as an agent for the county, and, if appropriate, the city or town, for the collection and payment of the tax levied by this Act and any existing city license or privilege taxes, and the intent being that such license tax hereby required shall be paid but once on each package of cigarettes.

**Section 5.** (a) It shall be the duty of each wholesale dealer or jobber who sells, stores, or delivers cigarettes to retail sellers in this County to affix to each package of cigarettes sold or delivered in said County the designated stamp. Each wholesaler or jobber who desires to do so may purchase said stamps from the County Commission of said County at a ten percent (10%) discount on the entire amount of sale when said purchases are made in quantities of TWO HUNDRED AND NO/100 DOLLARS (\$200.00) or more. Said discount allowed hereby will be compensation to the wholesale

dealer or jobber for the cost of affixing the said stamp to the cigarettes and for the keeping of the records required by this Act. All other persons, except such wholesale dealers, or jobbers, must pay the full face amount for stamps, and no person, wholesaler, jobber, or dealer, shall be entitled to purchase any such number of said stamps as would cause the purchase price to include fraction of a cent. Between the first day and the tenth day of each calendar month, each wholesaler or jobber selling, storing or delivering cigarettes for retail in this County, shall submit to the county commission on a form provided for the same by the county commission a sworn statement setting forth the amount of sales of cigarettes made in Baldwin County, Alabama, during the preceding calendar month, to whom said sales were made, and designating said sales as being within the city limits of the cities or towns located within said County, when such sales are made therein, or designating said sales as "rural" if sold outside of the city limits of the municipalities or towns located within said County.

(b) Each Seller, "wholesaler, jobber or retailer" shall keep complete records of all purchases, sales, receipts, inventories, and all other matters necessary to determine the correct amount of license tax for which he is liable. In the event a seller discontinues his business, he shall not dispose of his records without giving the county commission thirty (30) days' notice in writing.

(c) The seller's records, books of accounts, bank deposit books, and bank statements shall be open, during reasonable hours at the place of business of the seller, for inspection and examination by the county commission, or its agent, or such other person as may be designated under any rule or regulation adopted and promulgated by the county commission of Baldwin County, Alabama.

(d) In the event the amount of tax due by the seller cannot be accurately determined from the seller's monthly report, or if the seller does not keep adequate records, or if he refuses to allow an examination of his records, the amount of tax due may be determined from any other information or data available, and the amount of the tax so determined shall be assessed against seller. Notice of such assessment shall be given to the seller and a demand made for immediate payment.

(e) No person shall divulge any information obtained by him in the course of an inspection and examination of the records of any seller, except to a person duly authorized by the county or municipal governing body, the county attorney, or any others connected with the administration of this act, unless he is required to do so by an order of competent court.

**Section 6.** The County Commission shall keep on hand for sale an adequate supply of stamps to be affixed to each package of cigarettes as required under this act. Each such stamp shall have inscribed thereon the words "County of Baldwin Cigarette Tax," but said words need not be arranged in the foregoing order and may be abbreviated. Likewise the county commission, shall keep on hand an adequate supply of forms and other necessary supplies as may be required for the proper enforcement of the provisions of this act, and all necessary forms and supplies other than the stamps herein mentioned shall be furnished free of charge to each wholesaler and jobber as needed.

**Section 7.** (a) The county license tax imposed by this act and collected by the seller (wholesaler or retailer) shall be paid to the county commission, and the county commission, after first reimbursing the county general fund for expenses incurred in the administration and enforcement of this act, shall, between the 11th and 20th day of each month deposit the remainder of the proceeds of said tax in the county general fund of Baldwin County to be expended exclusively for mental health purposes as the county governing body sees fit.

(b) The city or municipal license tax, if any, collected by the seller (wholesaler or retailer) shall be payable by the seller directly to the city, municipality or town entitled to said city license tax.

**Section 8.** The county commission is hereby given the right, power, and authority to promulgate and adopt rules and regulations governing the collection of the county tax hereby imposed, if it is necessary so to do in order to more effectually carry out the terms and provisions of this Act, but it shall not have the right to alter or change the distribution of the taxes herein provided for. The county governing body shall make available ample funds from the county general fund for the purchase of stamps and other materials and supplies needed for carrying out the provisions of this act. However, the county general fund shall be reimbursed for all monies expended in connection with the administration and enforcement of this Act as provided under Section 7 of this Act.

**Section 9.** (a) It shall be unlawful for any person to offer for sale either at wholesale or retail in Baldwin County, Alabama, any cigarettes on which the stamp as herein provided does not appear and the possession of cigarettes in Baldwin County, Alabama, by a seller in any retail establishment without the proper stamp thereon shall be prima facie evidence of violation of this Act by said retail seller.

(b) It shall be the duty and responsibility of all wholesalers

and jobbers selling or distributing cigarettes in Baldwin County, Alabama, to see that the proper stamp is placed on said cigarettes packages before leaving them in a retail establishment, and it shall be the responsibility of all retail sellers of cigarettes in Baldwin County, Alabama, to have the proper stamp on all cigarette packages in their place of business which are offered for sale to the general public and failure to comply with this provision by wholesalers, jobbers, or retail sellers shall be a violation of said Act.

**Section 10.** A person who violates the provisions of this Act or any rule or regulation promulgated and adopted by the county commission, shall be guilty of a Class C misdemeanor, and each day his violation continues shall constitute a separate offense.

**Section 11.** No seller shall continue in business when he is in default in payment of the tax imposed by this Act. In addition to other penalties, a delinquent taxpayer shall be liable for a penalty of twenty per cent (20%) of the amount found to be due by him. Penalties shall be paid into the General Fund of the county.

**Section 12.** This Act shall not apply to acts or transactions in interstate commerce; nor shall any provision hereof apply to any business conducted by or for the United States or any other government. This Act shall not be construed to apply to cigarettes stored by a wholesale dealer for the purpose of resale or reshipment outside of the said County, which cigarettes are actually resold or reshipped.

**Section 13.** If any provision of this act, or the application thereof to any person or circumstance, is held invalid or inoperative, the remainder of the act and the application thereof to any other person or circumstance shall not be affected thereby.

**Section 14.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 15.** This act shall become effective the first day of the third month after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Amari, Barton, Bedsole, Bennett,  
 Biddle, Blake, Boles, Bowling,  
 Brakefield, Buskey, Cabaniss,  
 Campbell, Carothers, Carter,  
 Cates, Cheatwood, Clark (G),  
 Clark (W), Cobb, Coburn, Cooley,  
 Cosby, Crow, Daniels, Dial,  
 Dixon, Drinkard, Edwards,  
 Ford, Gilmer, Grouby, Hall,  
 Hammett, Harper (T), Harrison,  
 Harvey, Hilliard, Hines, Holmes,  
 Horn, Howard, Jackson,  
 Johnson (R.G.), Johnson (Roy),  
 Kelley, Kennedy, Laird,  
 Langford, Letson, Lewis, McKee,  
 McMillan, Manley, Minus,  
 Mitchell, Moore, Naramore,  
 Nevett, Olive, Owens, Parker,  
 Patton, Payne, Pegues, Penry,  
 Rains, Ray, Reed, Riddick,  
 Roberts, Sandusky, Sasser,  
 Seibels, Shavers, Shoemaker,  
 Smith (C), Smith (J), Smith (M),  
 Starkey, Stewart, Stout,  
 Trammell, Tucker, Turner,  
 Turnham, Waggoner, Ward,  
 Warren, Whatley, Williams,  
 Willis, Wyatt, Zoghby

#### HOUSE JOINT RESOLUTION

#### MOURNING THE DEATH OF MRS. JENNIE ELIZABETH PEMBERTON.

WHEREAS, it is with deep sorrow and regret that the Legislature of Alabama notes the death of Mrs. Jennie Elizabeth Pemberton of East Tallassee, Alabama; Mrs. Pemberton died today, May 19, 1980, at the age of one hundred years; and

WHEREAS, it was just recently that Mrs. Pemberton observed the centennial of her birth with her loving family and many friends sharing the happy occasion, an opportunity with which so few of us are blessed; and

WHEREAS, Mrs. Pemberton's long and active life was indeed a blessing to her family and friends who, even as they grieve, give thanks for her love and guidance for so many happy years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are grievously saddened by the death of Mrs. Jennie Elizabeth Pemberton and extend our most heartfelt sympathy to all her family.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to her son and our friend, House Clerk John Pemberton, with copies also provided for her other children, that they may know of our deeply shared sorrow and of our concern for them in their time of such great loss.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-615

H.J.R. 337—Trammell

### HOUSE JOINT RESOLUTION

HONORING MAYOR MAURICE WEST OF GRAYSVILLE, ALABAMA FOR HIS DEDICATED SERVICE TO THE CITY.

WHEREAS, Maurice C. West has diligently served the City of Graysville, Alabama in Jefferson County as its mayor continuously since the year 1946; and

WHEREAS, Mayor West and the Graysville Civitan Club were instrumental in gaining incorporation of the City of Graysville in 1946, which was desperately needed in order to acquire a water system for the area; and

WHEREAS, the city park and recreation board has flourished under his leadership; and

WHEREAS, Mayor West has worked tirelessly for the acquisition of a municipal gas system, a public library, and a community center for the City of Graysville (which community center has been designated the "Maurice C. West Community Center" in his honor); and

WHEREAS, Mayor West is respected, loved and admired by the people of Graysville and by the members of Graysville First United Methodist Church in which he is an active member; and

WHEREAS, Mayor West will not seek re-election in 1980, thus ending a brilliant, dedicated and productive career of 34 years as Mayor; now therefore



BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we commend Mayor Maurice West of Graysville, Alabama for his 34 years of service to the people of Graysville and wish him the best upon his upcoming retirement from political life.

RESOLVED FURTHER, That a copy of this resolution be sent to Mayor West so that he may know of our admiration and high regard.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-616

H. 571—Owens

### AN ACT

To provide further a salary increase for certain state employees and to appropriate funds therefor for the fiscal year ending September 30, 1981.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Beginning on October 1, 1980, all state employees who are listed in the classified and unclassified service of the state as defined in Section 36-26-10, Code of Alabama 1975, and all other state employees and all hourly employees of the state, except those set out in Section 2 herein, and all legislative personnel, officers and employees, including but not limited to Legislative Reference Service personnel, whether subject to the state merit system or not, and all circuit clerks and registers and state judges, except as provided in Section 2 herein, and all employees of the county health departments who are employed subject to the state merit system and whose compensation is paid out of a budget provided and agreed upon by the state, county, or other contributing agency under the direction of the state board of health shall receive a 7½% salary increase. Such increase shall include in its base the total increase authorized by Act No. 79-724 of the 1979 Regular Session (Acts 1979, p. 1283). However, any state employee covered under the provisions of this Act, and otherwise eligible for consideration for an annual step increase in salary, shall only be eligible for a maximum step increase in the amount of 2½% at the time of their annual review, which step increase shall be in lieu of any step increase heretofore provided by law. Any cost-of-living increase granted under the provisions of this Act shall in no way apply to any local supplement provided to any judges or any other employee of this state. All such increases shall be in addition to the salary

received by such employees. It is the intention of the legislature that the Governor be, and he is hereby authorized to transfer such amounts to, from, and between such departments, boards, bureaus, commissions, agencies, offices, and institutions under his direct control for the purpose of paying the salary increase for state employees and officials.

**Section 2.** The provisions of this Act shall not apply to any merit system employee or hourly employee whose service or rates of pay are covered by any labor agreement or contract, nor shall this Act apply to state judges whose salaries are payable from the state treasury if such judges' salaries are increased under and by virtue of: (1) The recommendations contained in the Report of the Judicial Compensation Commission to the 1980 Regular Session of the legislature becoming law; or (2) the enactment into law of legislation altering and amending said report; or (3) any other legislation enacted into law during the 1980 Regular Session of the legislature. Provided further, that the provisions of this Act shall not apply to any person covered by Senate Bill 507 of this session of the legislature upon said Senate Bill 507 becoming law.

**Section 3.** The director of the state personnel department shall revise the schedule of rates set forth in the pay plan for state employees subject to the merit system law to reflect the increase provided and shall certify the same to the state comptroller, who shall issue warrants in accordance therewith. The director of the state personnel department shall also revise the rates of pay for hourly state employees and for legislative personnel, including but not limited to Legislative Reference Service personnel, not subject to the state merit system law to reflect the increases herein provided and the comptroller shall draw his warrants in accordance therewith. With respect to court officials and employees within the Unified Judicial System who serve the trial courts of the state and the Administrative Office of Courts, the Administrative Director of Courts shall revise the schedule of rates set forth in the pay plan for such court officials and employees to reflect the increase provided herein, and shall certify the same to the state comptroller who shall issue warrants in accordance therewith.

**Section 4.** Such amounts as may be necessary to pay state employees the increased salaries provided herein are hereby appropriated for the fiscal year beginning October 1, 1980, from such funds as the salaries of the several state employees are paid, or, if there is not sufficient money in such funds, then from the general fund of the state treasury or any revenue sharing funds, such additional sums as may be necessary to pay the salary increases

herein provided for such state employees and officials as are subject to the provisions of this Act.

**Section 5.** All appropriations shall be allotted and disbursed only in such proportions as the total sum appropriated bears to the total amount available in the source fund. An overdraft or deficit in any fiscal year for any fund shall be prevented as provided by law without discrimination whatsoever by the governor, or any department, board, bureau, commission, agency, office or institution against any department, board, bureau, commission, agency, office or institution.

**Section 6.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 8.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-617

H. 853—Barton

### AN ACT

To repeal Act No. 839, S. 907, 1975 Regular Session (Acts of 1975, p. 1674) relating to counties with a population of not less than 110,000 nor more than 150,000 inhabitants, which created a Public Defender Office and Act No. 1286, H. 1694, 1971 Regular Session (Acts of 1971, p. 2208) relating to counties with a population of not less than 110,000 nor more than 150,000 inhabitants which created a Public Defender Office.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act No. 839, S. 907, 1975 Regular Session (Acts of 1975, p. 1674) relating to counties with a population of not less than 110,000 nor more than 150,000 inhabitants, which created a Public Defender Office and Act No. 1286, H. 1694, 1971 Regular Session (Acts of 1971, p. 2208) relating to counties with a population of not less than 110,000 nor more than 150,000 inhabitants which created a Public Defender Office, are hereby repealed.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise

becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-618

H. 852—Barton

### AN ACT

Relating to Tuscaloosa County; to authorize and provide for the establishment, operation and financing of a Public Defender Office for the representation and defense of persons accused of crime who are declared indigent by the courts; to establish a Public Defender Commission to operate said office; to define the powers, duties of and limitations upon said Commission and the Public Defender; to provide for the selection and compensation of the Public Defender and for the employment and compensation of the Assistant Public Defenders and the personnel of said office, and for the expenses of said office; to provide for the resignation and removal of the Public Defender and personnel of the Public Defender Office; to provide for the taxing and collecting of additional court costs in certain courts in said counties for such purpose and for the expenditure thereof; to provide for continued opportunity for other lawyers to be appointed to represent such indigent persons accused of crime; to provide for the pro rata return of any excess money in the Public Defender Fund to the counties and municipal bodies from which received.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby established a Public Defender Commission of Tuscaloosa County consisting of seven (7) members, each of whom shall be selected as set out below and shall serve for a term of one (1) year:

(a) During the term of their respective offices, the three (3) duly elected officers of the county bar association, selected at large by the Association.

(b) During the term of his office as such, the presiding judge of the 6th Judicial Circuit.

(c) Three (3) members of the county bar association, selected for a term of one (1) year, to be selected at the time of and in the manner of selecting officers of the county bar association. Provided, however, present members of the commission previously selected under this subsection shall serve the remainder of their present term of office.

(d) In the event any vacancy in the Public Defender Commission shall occur, the members of the said Public Defender Commission shall, by a simple majority vote, select a replacement.

(e) Members of the Public Defender Commission shall serve

without compensation as such but all reasonable expenses incurred by the commission in the performance of its duties shall be paid or reimbursed on warrants drawn on the general fund of the county, or on a County Public Defender Fund as provided in Section 3 of this Act.

(f) The chairman and the secretary, respectively, of the Public Defender Commission of Tuscaloosa County, shall be the duly elected president and the secretary of the county bar association. The commission shall have the power and authority to select the Public Defender; and within the limits of this Act:

(i) To fix his compensation;

(ii) to establish an annual budget for expenditures of the Public Defenders Office; and

(iii) to make and establish rules and regulations for the conduct and operation of the commission and of the Public Defender Office.

**Section 2.** (a) The commission by vote of a simple majority of its members shall select the Public Defender on the first Tuesday after the first Monday in November to serve a term of four years. The commission shall make a similar selection every four years. Provided, however, the present Public Defender shall serve the remainder of his present term of office.

(b) The Public Defender shall upon entering his duties take the oath of office as set forth in Section 279 of the Constitution, of Alabama, 1901. He shall serve full time and his duties shall be limited to representation of indigent defendants who are accused of criminal offenses where representation is required by law after a finding of indigency by the Court. After such finding of indigency, in the event of appointment by the Court, the Public Defender shall thereafter provide representation for such defendants in all matters pertaining to charges against defendants, including post conviction proceedings. The Public Defender may be appointed by any state, county, or municipal judge of any court in Tuscaloosa County where appointment of legal counsel shall be required by law.

(c) The Public Defender may resign or be removed from office by a vote of five (5) members of the commission on sixty (60) days written notice. Cause for such removal from office shall be willful neglect of duty, corruption in office, incompetency or intemperance in the use of intoxicating liquors or narcotics to such extent in view of the dignity of the office and importance of its duties as unfits the Public Defender for the discharge of said duties

or any offense involving moral turpitude while in office, or committed under color thereof or connected therewith. The decision of the commission to remove the Public Defender shall be final and there shall be no right of appeal therefrom. Any vacancies in the office of the Public Defender shall be filled by the Public Defender Commission.

**Section 3.** (a) There is hereby established in Tuscaloosa County a Public Defender Fund. Upon the effective date of this Act, the governing body of each such county shall appropriate to the Public Defender Fund from the general funds of the county, such sums as are necessary for the payment of salaries and operating expenses of the Public Defender Office as provided herein. A similar appropriation shall be made each year to supplement other sums paid into the Public Defender Fund, and such appropriation shall be in accordance with the budgeting procedures as provided in this Act. Any Public Defender Fund now in existence shall be considered as part of the fund.

(b) If any funds from any source be made available or offered to the Public Defender or his assistants for the defense of any person for whom he has been appointed counsel, the same shall promptly be reported to the court in which the case is pending: The Public Defender shall request the court to make further determination as to the effect of such funds on the determination of indigency of the said defendant. In the event that the court shall find (a) that the defendant is not an indigent, Section 5 below shall apply or (b) that the defendant continues to be an indigent but that funds available should be accepted, such funds shall be paid directly to the county for deposit in the Public Defender Fund.

(c) All funds received by or payable to the Public Defender or any assistant Public Defender under the provisions of Act No. 526, S. 362, approved September 16, 1963, as amended or supplemented, or pursuant to any other act or law now existing or hereafter enacted shall be paid to the Tuscaloosa County Public Defender Fund.

(d) In the event that any funds are received by the Public Defender, his assistants or any other personnel in the Public Defender office by bequests, contributions or donations, all such funds shall be paid to said county Public Defender Fund.

(e) Except as hereinabove provided, neither the Public Defender, nor any person employed by him in any capacity, including his assistants, shall accept any money, funds, gifts or anything of value from any person whomsoever for any services rendered or to be rendered, pursuant to such employment in and by

the Public Defender office.

**Section 4.** The provisions of this Act shall not be construed as preventing the appointment of any licensed attorney who requests such appointment in indigent cases, and a roster of such attorneys shall be kept by the circuit court clerk which shall be available for use by the judges of such court. Each attorney appointed in such cases shall be entitled to receive for his services the fee provided in Sections 15-12-20 through 15-12-23, Code of Alabama, 1975, or pursuant to any other act or law now existing, or hereafter enacted.

**Section 5.** In the event that, after the Public Defender has been appointed to represent a person accused of crime, it is determined by the court in which the case is then pending that the defendant is not then an indigent, or in the event the defendant employs another attorney to defend him, the court shall revoke the appointment of the Public Defender.

(a) After being appointed to represent a person found to be indigent, the Public Defender is hereby authorized and directed to continue his investigation of indigency of said defendant and his access to other funds and shall render a written report to the court after such appointment if any substantial appreciation in defendant's financial status occurs or upon completion of all facets of the case to which the Public Defender has been appointed.

(b) Neither the Public Defender, nor any person in the employ of the Public Defender offices, including his assistants, shall suggest or recommend an attorney-at-law, by name or otherwise, to any person for any purpose at any time.

**Section 6.** The Public Defender for said respective counties, shall be paid at an annual rate of not less than eighteen thousand dollars (\$18,000.00) and not more than an amount equal to the total compensation paid to the District Attorney of the 6th Judicial Circuit including both state and county compensation and allowances; or in the alternative, not more than an amount determined and set by a majority of the members of the Public Defender Commission. Said compensation shall be paid in equal monthly installments from the Public Defender Fund of the county.

**Section 7.** Within the limits of this act and subject to the approval of the Public Defender Commission the Public Defender may appoint personnel as stated below and fix their compensation. Each shall serve at the pleasure of the Public Defender and be compensated as follows:

(a) Assistant Public Defenders shall serve full time and shall be paid at an annual rate not exceeding five hundred dollars

(\$500.00) less than the annual compensation received by the Public Defender, payable in equal monthly installments by the county, from the Public Defender Fund. Provided, however, that no person shall be appointed to the position of an Assistant Public Defender, until the need for the same shall be determined by the commission and authorized by the commission.

(b) Such secretarial, stenographic and clerical assistants as deemed necessary, each to be compensated at a rate not to exceed five hundred dollars (\$500.00) less than the annual compensation received by the least paid Assistant Public Defender, provided this shall not cause a reduction in compensation received by such individuals, and shall be paid in equal monthly installments by the county from the Public Defender Fund.

(c) One or more investigators, administrative assistants, para-legals, and other legal assistants to serve full time and each to be paid at an annual rate not exceeding five hundred dollars (\$500.00) less than the annual compensation received by the Public Defender, payable in equal monthly installments by the county, from the Public Defender Fund. Provided, however, that no person shall be appointed to the positions of investigator, administrative assistant, para-legal or legal assistant until the need for the same shall be determined by the commission and authorized by the commission.

(d) The provisions of any existing merit system or civil service law shall not be applicable to such personnel, so appointed, and the provisions of any law, in conflict with any of the provisions of this section are repealed.

**Section 8.** The expenses of operating the office of the Public Defender, including space rental, furniture purchase or rental, equipment, supplies, typewriters, telephone, library, and other items that are reasonably necessary for the operation and maintenance of such an office are hereby authorized and may be budgeted and approved by the Public Defender Commission.

**Section 9.** In extraordinary cases, as determined by the Public Defender Commission, funds for expert witnesses, legal exhibits, photographs, drawings and documents in connection with preparation and trial of criminal cases in which the Public Defender has been appointed may be authorized by the commission. When any such funds for said purposes when deemed necessary are authorized, the same may be expended by the Public Defender, provided that he shall submit a written report and accounting of such expenditures, supported by appropriate vouchers, not less frequently than semi-annually to the said



commission. The Public Defender shall draw warrants on the county's Public Defender Fund for any expenditures provided in this Act.

**Section 10.** In order to provide a special fund for the purposes set forth in this Act, there shall be taxed as costs the sum of five dollars (\$5.00) in each case or action in the Circuit Court of Tuscaloosa County, Alabama, including but not being limited to all Quasi-Civil Actions at Law, Suits in Equity, Criminal Cases, Quasi-Criminal Cases, proceedings on a Forfeited Bail Bond or proceedings on a Forfeited Bond hereafter given in connection with an appeal from a judgment or conviction of any county or municipal court to the Circuit Court hereafter filed in, arising in, or brought by appeal, certiorari or otherwise to the Circuit Court of Tuscaloosa County, which costs shall be collected as other costs in such cases are collected by the clerk of said court or the Register in Chancery thereof, as the case may be, and when collected shall be paid to said Public Defender Fund.

**Section 11.** There shall also be taxed as costs the sum of one dollar (\$1.00) in each Civil Case or Criminal Case hereafter filed in the District court, which costs shall be collected as other costs in such cases are collected and when collected by the clerk of said court shall be paid to the Public Defender Fund.

**Section 12.** There shall also be taxed as costs the sum of one dollar (\$1.00) in each case hereafter filed in the Juvenile and Domestic Relations Court of Tuscaloosa County, which costs shall be collected as other costs in such cases are collected and when collected by the clerk of said court shall be paid to the county Public Defender Fund.

**Section 13.** There shall also be taxed as costs the sum of one dollar (\$1.00) in each Criminal Case and Quasi-Criminal Case hereafter filed in all municipal courts in Tuscaloosa County, with the exception of cases involving parking violations, which costs shall be collected as other costs in such cases are collected and when collected by the clerk of said court shall be paid to the county Public Defender Fund.

**Section 14.** All sums herein provided to be paid to the county Public Defender Fund shall be kept by the Public Defender Commission in a separate account, and shall be expended for the purposes set forth in this Act. The Public Defender shall draw warrants on the county Public Defender Fund for expenditures by indicating on the warrants the purpose for which the warrants are drawn. Said fund shall be used to pay for proper and necessary operation of said Public Defenders office as approved by said

Public Defender Commission within the limits of this Act.

**Section 15.** At the end of each four (4) years the Public Defender Commission shall ascertain the total of the funds on hand in the Public Defender Fund as maintained by the county and if in the sound discretion of the Public Defender Commission said funds constitute a surplus over and above the amount necessary for present and future operations of the Public Defender office, the commission shall determine what amount is surplusage and may cause the Public Defender to refund to all or any of the contributing sources of the Public Defender Fund such amounts to all or any of said contributing sources which in the sound discretion of the commission it deems fair and equitable.

**Section 16.** If any sentence, clause, provision or section of this Act be declared to be invalid, the invalidity thereof shall not affect the validity of any portion or provision of this Act, it being the intention to enact into law so much hereof as may validly become law, irrespective of the invalidity of any portions hereof.

**Section 17.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 18.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-619

H. 546—Amari, Bennett

### AN ACT

To amend further Act No. 929, Section 676, Regular Session 1971 (Acts 1951, Page 1579), as extensively amended by act no. 1272, Section 620, Regular Session 1973 (Acts 1973, Page 2124), and other amendatory acts, which relate to the establishment of a pension and relief or retirement and relief system for officers, employees, or their dependents, of any city having a population of 250,000 according to the 1970 or any subsequent federal decennial census, so as to allow participants therein to purchase credit for certain of their prior unclassified service with the city.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Article V of Act No. 929, Section 676, Regular Session 1951, as extensively amended by Act No. 1272, Section 620, Regular Session 1973 (Acts 1973, Page 2124) and other amendatory acts, is hereby amended by adding thereto a Section 7 to read as

follows:

**'Section 7. Purchase of Credit for Prior Unclassified Service.**

(a) Any employee member having been a full-time employee in the unclassified service of the city as a common laborer for less than ten years before becoming a Participant may receive credit in the system for such service by paying into the Fund within the time hereafter required an amount to be computed as follows:

(1) The amount received by the employee during each month of such service shall be ascertained. If any such monthly amount cannot be shown by adequate records, it shall be deemed to be the same as the next succeeding monthly amount which can be established by adequate records;

(2) The contribution which would have been deducted by the city from each such monthly amount, as if during each such month the employee had been a Participant shall be computed in accordance with the terms of this Act existing on the date of such employee's becoming an employee member;

(3) The total of interest at the rate of six percent (6%) per annum on each of such deductions shall be computed from the date when they would have been made until the date when said amount is payable into the Fund;

(4) The total of such monthly deductions which would have been made plus the total of interest on each, both as determined under this Section 7, shall be the amount payable into the Fund.

(b) To receive credit in the system for such prior unclassified service the employee member shall first have waived in writing all his rights to allowances or benefits under any retirement or relief system created only for unclassified employees of the city and shall have paid said amount into the Fund within sixty days after date that this Section 7 becomes effective or that he becomes a Participant, whichever of said periods last expires.

(c) This Section 7 shall not apply to an employee member who has completed ten or more consecutive years in the unclassified service of the city as a common laborer prior to becoming a Participant.'

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise

becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-620

H. 773—Boles, Howard, Horn, Lewis,  
Olive, Waggoner, Moore,  
Gafford, Trammell, Jackson,  
Tucker, Harrison, Hilliard,  
Cheatwood, Amari, Bennett,  
Payne

AN ACT

Relating to Jefferson County; providing further for the salary of the tax assessor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Jefferson County, the tax assessor is hereby entitled to receive an annual salary of \$32,000. Said salary shall be in lieu of any and all other compensation, salary or expense allowance heretofore provided by law and shall be payable from the general fund of the county in the same manner as other county officials are paid.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-621

H. 992—Sandusky

AN ACT

To authorize, provide for, and regulate the furnishing of office space and secretarial assistants to the legislative delegation in Mobile County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The governing body of Mobile County may jointly with the governing bodies of any incorporated municipalities

within the county provide office accommodations for the members of the state legislative delegation from the county and also provide secretarial assistants to such legislative delegation. The largest city in Mobile County shall provide the office space and the telephone for the office, or at least the price thereof with the advice and consent of the delegation as to its location. The other incorporated municipalities in the county shall each pay eight cents per capita to cover other expenses of maintaining and operating such offices. The county shall provide for two clerical or stenographic assistants for the legislative delegation. Such assistants may in the discretion of the county governing body, but need not be members of any county, city or state merit or retirement system, if such system exists. Each of such assistants shall receive a salary of not less than \$600.00 nor more than \$1400 a month, the exact amount of the compensation for each of such secretarial assistants shall be fixed by the members of the legislative delegation, subject to approval by the county governing body. The county governing body shall provide temporary help for the Mobile County Local Delegation during those times when the work load is excessive for the two clerical assistants. Such temporary help shall be provided for through a specific request by the chairman of the delegation. The temporary help shall work during a time period not to exceed ten working days, and payment for the help shall come from Mobile County.

**Section 2.** The members of the legislative delegation from Mobile County shall designate a treasurer to handle the funds hereinabove provided for the operation and maintenance of such office and for the payment of the salaries of clerical assistants. Such treasurer may be either a member of the legislative delegation or one of the secretarial assistants hereby provided for. All funds authorized to be paid by the county or by any municipality therein for the purposes herein-above provided for shall be paid to such treasurer of the legislative delegation.

All receipts and expenditures must be duly recorded in proper accounting books. These ledgers shall be available for public inspection at all reasonable times but with no more than a two day delay from the time of a request.

Three members of the delegation shall be appointed as committee to audit financial records on an annual basis.

**Section 3.** All laws or parts of laws in conflict with this act are hereby repealed. Without limiting the generality of the foregoing, Act number 32, Second Special Session of the Legislature of 1975, is specifically repealed.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-622

H. 944—Owens, Mitchell, Barton,  
Howard, Clark (G), Johnson (Roy)

### AN ACT

To alter the boundary line between Bibb and Tuscaloosa County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** A certain portion of the boundary line between Bibb and Tuscaloosa Counties is hereby altered as follows:

From Southeast Corner of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  Section 7, Township 22 South, Range 6 West to the Northeast corner of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$ , Section 3, Township 21 South, Range 6 West.

Begin at the Southwest Corner of the Southeast Quarter of the Southeast Quarter of Section 7, Township 22 South, Range 6 West; thence North along the Western Boundary of the East half of the East half of Section 7, Section 6, Township 22 South, Range 6 West, also continue along the Western Boundary of the East half of the East half of Section 31, Section 30, and Section 19 to the Northwest corner of the Northeast Quarter of the Southeast Quarter, Section 19, Township 21 South, Range 6 West; thence in a Northeasterly direction to the Southwest corner of the Southwest Quarter of the Southeast Quarter Section 3, Township 21 South, Range 6 West; thence Easterly along the Southern Boundary of Section 3, Township 21 South, Range 6 West to the Southeast corner of Section 3, Township 21 South, Range 6 West; thence Northerly along Eastern Boundary of Section 3 to the Northeast corner of the Southeast Quarter of the Southeast Quarter Section 3, Township 21 South, Range 6 West, point of ending.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise

becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-623

H. 1083—Barton

### AN ACT

Relating to Tuscaloosa County; authorizing the county governing body and the governing bodies of municipalities in the county to adopt ordinances which protect the historic architectural character of the county, including designating historic districts, creating certain agencies to regulate and promote the preservation of such districts, which are located or are to be located in the designated historic districts, and adopting other provisions necessary to effect the purposes of this Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This Act shall apply only in Tuscaloosa County.

**Section 2.** Purpose. The purpose of this Act is to promote the educational, cultural, economic, and general welfare of the public and of the county through the preservation and protection of buildings, sites, structures, areas, and districts of historic interest; through the maintenance of such as landmarks in the history of architecture, of the state and of the nation; through the development of appropriate settings for such buildings, sites, structures, areas and districts; and through the benefits resulting to the economy of the county in developing and maintaining its vacation-travel industry through the promotion of these historic associations.

**Section 3.** The county governing body therein may, upon the recommendation of the Heritage Commission of Tuscaloosa County, designate as historic districts any areas, sites, buildings or structures (including, where appropriate, individual buildings and structures) of the county having an overall atmosphere of architectural and historic distinction and which lie within the limits of the county and outside of any municipality located therein, provided that such areas, sites, buildings or structures appear and be listed upon The State of Alabama Survey of Historic Places Maintained by The Alabama Historic Commission. Any municipal governing body located in the county may upon the recommendation of the Heritage Commission of Tuscaloosa County designate as historic districts, any areas, sites, buildings or structures (including, where appropriate, individual buildings and structures) having an overall atmosphere of architectural and

historic distinction and which lie within the limits of the municipality, provided that such areas, sites, buildings or structures appear and be listed upon the State of Alabama Survey of Historic Places Maintained by the Alabama Historic Commission. The county or municipal government, in deciding whether to establish an area, site, building or structure as an historic district, shall take into account the factors specified in the first sentence of Section 5 (B) of this Act.

**Section 4.** The Heritage Commission of Tuscaloosa County, hereinafter sometimes called the Commission, with the following membership, duties and powers may be created by the county governing body:

(A) The Commission shall be designated as the Heritage Commission of Tuscaloosa County.

(B) Said Commission shall be composed of eleven members; four of whom shall be appointed by the county governing body, four shall be appointed by the governing body of the largest municipality in the county, two shall be appointed by the second largest municipality in the said county, and one shall be appointed by the third largest municipality in the county. Members shall be appointed in such a manner as to serve overlapping terms of four years each, except for the first appointed members. The original appointment of the members of the Commission shall be as follows: The county governing board shall appoint one member for one year, one for two years, one for three years, and one for four years; the governing board of the largest municipality in the county shall appoint one for one year, one for two years, one for three years, and one for four years; the governing board of the second largest municipality in the county shall appoint one for two years, and one for four years; and the governing board of the third largest municipality in the county shall appoint one for three years. All subsequent terms shall be four-year terms of appointment. Vacancies occurring in the Commission, other than by expiration of term of office, shall be filled by appointment by the appropriate governing board, but such appointment shall be for only the unexpired portion of term of the member replaced. It is deemed desirable but not required that the membership of the Commission include at least two architects, one historian qualified in the field, one city planner or landscape architect, and one realtor. The Commission shall elect from its membership a chairman and a vice-chairman who shall serve for terms of one year and who shall be eligible for re-election. The chairman shall preside over the Commission and shall have the right to vote. In the absence or disability of the chairman, the vice-chairman shall perform the



duties of the chairman. A majority of the members of the Commission shall constitute a quorum, provided however, that no application for a permit under Section 5 hereof shall be denied except by the affirmative vote of a majority of the entire Commission.

(C) The Commission shall operate under such by-laws as it shall adopt for the regulation of its business and organization, provided these are consistent with and not contrary to the laws of the State of Alabama. The Commission may adopt such other rules as may be necessary or desirable for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. Meetings shall be held at regular intervals. All meetings of the Commission shall be open to the public. The Commission may employ such persons as it may deem necessary for its work. The board may also contract with architects and other professional and technical consultants for such services as it may require. The expenditures of the Commission, exclusive of gifts or grants, shall be within the amounts appropriated for the purpose by the appropriate governing body, which may provide funds, equipment and accommodations for the Commission's work.

(D) Said Commission shall have the following powers in addition to all other powers conferred on it by this or any other law: (1) to purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage, and insure real and personal property of all kinds and descriptions, including, but not limited to, architectural easements or facade easements designed to preserve the historic and architectural character of the exterior of buildings and structures located in the county; (2) to request, solicit and accept gifts, donations, pledges, fees, bequests, devices, loans or appropriations from any source whatsoever including, but without being limited to, grants or loans from any authorized agency of the State or Federal government; (3) to set up at such lawful depository or depositories in the county as it may select, a "Revolving Fund for Historic Development" which shall be composed of the monies which may come into its hands from any source whatsoever and which shall be used for the furtherance of the objectives and purposes of the Commission; (4) to employ such professional, office, technical and other personnel as may be necessary or desirable for the carrying out in the most efficient manner of the purposes of such Commission; (5) to conduct a survey of local historic properties; (6) to preserve, restore, maintain and operate historic properties under the ownership, possession, custody, or control of the Commission; (7) to contract with the State or the Federal Government, or any agency of either, or with any other organization or person; (8) to

cooperate with the Federal, State and local governments in the pursuance of the objectives of historic preservation; (9) to participate in the conduct of land-use, urban renewal and other planning processes undertaken by the county or by any municipality therein; (10) to make recommendations and otherwise to provide information for the purposes of historic preservation to the county or any municipality therein; (11) to promote and conduct educational and interpretive programs on historic properties within the county; (12) to enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof, provided, however, that no member, employee or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof; (13) to act in accordance with Section 5 hereof; (14) to exercise such further powers as the Commission may deem necessary and fitting to the carrying out of its above-stated purposes.

(F) The Commission shall constitute a non-profit governmental agency whose funds shall be used exclusively for public purposes. The Commission shall have a tax exempt status, and the properties of the Commission and the income therefrom, together with all leases, agreements and contracts made by it, shall be forever exempt from any and all taxation by the State of Alabama and any political subdivision thereof, including, but not limited to, income, admission, amusement, excise, and ad valorem taxes.

**Section 5.** (A) No building or structure which is or is located within an historic district established under the authority of this Act may be erected, demolished or removed in whole or in part, nor may the exterior architectural character of such a building or structure be altered until after application for a permit has been submitted to the Commission and approved by it.

(B) In passing upon an application for a permit required under subsection (A) of this section, and in making recommendations to governmental authorities under Section 4 of this Act, the Commission shall consider, among other things, the historic, architectural and aesthetic features of such structure, building, area or site, the nature and character of the surrounding area, the use of such structure, building, area or site, and its importance to the county or municipality in which it is located. In addition to the above factors, when the Commission is requested to issue a permit for new construction in an historic district, it shall consider the general design, the character and appropriateness of design, scale of buildings, arrangement, texture, materials and color of the structure or building in question, and the relation of

such elements to similar features of buildings and structures in the immediate surroundings. The Commission shall not consider interior arrangement or interior design; nor shall it make requirements except for the purpose of preventing developments that are not in harmony with the prevailing character of the historic district affected, or that are obviously incongruous with this character. The Commission may refuse a permit for the erection, reconstruction, alteration, demolition, partial demolition, or removal of any building or structure within an historic district that, in the opinion of the Commission, would be detrimental to the interests of the district and against the public interests of the county and of the municipality, if any, in which the district, building or structure is located.

(C) Among other grounds for refusing to issue a permit of the inappropriateness of design, are the following specific defects: Arresting and spectacular effects, violent contrasts of materials or colors and intense or lurid colors, a multiplicity or incongruity of details resulting in a restless and disturbing appearance, the absence of unity and coherence in composition not in consonance with the dignity and character of the present structure or building in the case of repair, remodeling or enlargement of an existing building or with the prevailing character of the neighborhood in the case of a new building.

(D) In case of disapproval of an application for a permit, the Commission shall state the reasons therefor in a written statement to the applicant and may give verbal advice and illustrative drawings to the applicant and make recommendations in regard to appropriateness of design, arrangement, texture, material, color and the like of the property involved.

**Section 6.** Prior to the making of any recommendation by the Commission to a governmental authority for the establishment of an historic district, and prior to any determination with respect to an application for a permit to demolish any building or structure, in whole or in part, that is or is located within an historic district, the Commission shall hold a public hearing upon the issue. At least three (3) days' notice of the time and place of each such hearing shall be given by the chairman of the Commission by publication in the form of an advertisement in a newspaper of general circulation within the county and in writing to the applicant.

**Section 7.** Any person aggrieved by a determination or ruling of the Commission may appeal, within thirty (30) days of such ruling, as follows:

(A) To the board of adjustment of the municipality in which the area, site, building or structure is located, if the area, site,

building or structure in question is located within a municipality having a board of adjustment established pursuant to Section 11-52-8, Code of Alabama 1975.

(B) To the circuit court or court of like jurisdiction, sitting in the county, in all other cases.

**Section 8.** The circuit court or court of like jurisdiction sitting in the county shall have jurisdiction to enforce the provisions of this act and the rulings and determinations issued thereunder and may restrain by injunction violations thereof.

**Section 9.** The county governing body, and any municipality therein, may adopt such other resolution or ordinances and appropriate such sums of money as the governing bodies may deem necessary to effect the purposes of this Act.

**Section 10.** In case any section, paragraph or part of this Act be for any reason declared invalid or held unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

**Section 11.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-624

H. 458—Gafford

### AN ACT

Relating to the feeding of prisoners by sheriffs; to amend Section 14-6-42, Code of Alabama 1975, which provides for the daily allowance for feeding prisoners, so as to increase said allowance and to repeal Sections 14-6-44, 14-6-45, and 14-6-46, Code of Alabama 1975, which further provide for said allowance and reporting of such by the sheriffs.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 14-6-42, Code of Alabama 1975, is hereby amended to read as follows:

“§14-6-42. Food for prisoners in the county jail shall be paid for by the state as follows: There shall be allowed such amount as is actually necessary for food for each prisoner daily, and said amount so allowed shall be \$1.75 per capita. In addition to the above amount, there is hereby conditionally appropriated from the general fund an amount of \$1.25 per capita.”

**Section 2.** Sections 14-6-44, 14-6-45, and 14-6-46, Code of Alabama 1975, are hereby specifically repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-625

H. 13—Minus

### AN ACT

To amend Section 40-23-4 of the Code of Alabama 1975, as amended, which relates to exemptions from state sales taxes so as to exempt certain sales of lubricating oil destined for out-of-state use from such taxes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-23-4 of the Code of Alabama 1975, as amended, is hereby amended further to read as follows:

“§40-23-4. There are exempted from the provisions of this division and from the computation of the amount of the tax levied, assessed or payable under this division the following:

“(1) The gross proceeds of the sales of lubricating oil and gasoline as defined in sections 40-17-30 and 40-17-170 and the gross proceeds from those sales of lubricating oil destined for out-of-state use which are transacted in a manner whereby an out-of-state purchaser takes delivery of such oil at a distributor's plant within this state and transports it out-of-state, which are otherwise taxed.

“(2) The gross proceeds of the sale, or sales, of fertilizer. The word ‘fertilizer’ shall not be construed to include cottonseed meal, when not in combination with other materials.

“(3) The gross proceeds of the sale, or sales, of seeds for planting purposes and baby chicks and poults. Nothing herein shall be construed to exempt or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale or sales of plants, seedlings, nursery stock or floral products.

“(4) The gross proceeds of sales of insecticides and fungicides and feed for livestock and poultry, but not including prepared food for dogs and cats.

“(5) The gross proceeds of sales of all livestock by whomsoever

sold, and also the gross proceeds of poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm.

“(6) Cottonseed meal exchanged for cottonseed at or by cotton gins.

“(7) The gross receipts from the business on which, or for engaging in which, a license or privilege tax is levied by or under the provisions of sections 40-21-50, 40-21-53 and 40-21-56 through 40-21-60; provided, that nothing contained in this subdivision shall be construed to exempt or relieve the person or persons operating the business enumerated in said sections from the payments of the tax levied by this division upon or measured by the gross proceeds of sales of any tangible personal property, except gas and water, the gross receipts from the sale of which are the measure of the tax levied by said section 40-21-50, merchandise or other tangible commodities sold at retail by said persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by the provisions of this division.

“(8) The gross proceeds of sales or gross receipts of or by any person, firm or corporation, from the sale of transportation, gas, water or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the public service commission of Alabama or like regulatory bodies.

“(9) The gross proceeds of the sale, or sales of coal or coke to manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products, or the generation of heat or power used in manufacturing tangible personal property for sale, for the generation of electric power or energy for use in manufacturing tangible personal property for sale or for resale, or for the generation of motive power for transportation.

“(10) The gross proceeds from the sale or sales of fuel and supplies for use or consumption aboard ships and towing vessels plying the high seas or gulf intracoastal waterway either in intercoastal trade between ports in the state of Alabama and ports in other states of the United States or its possessions or in foreign

commerce between ports in the state of Alabama and ports in foreign countries; provided, that nothing in this division shall be construed to exempt or exclude from the measure of the tax herein levied the gross proceeds of sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of 50 tons burden or less.

“(11) The gross proceeds of sales of tangible personal property to the state of Alabama, to the counties within the state and to incorporated municipalities of the state of Alabama.

“(12) The gross proceeds of the sale or sales of railroad cars, and vessels and barges of more than 50 tons burden, when sold by the manufacturers or builders thereof.

“(13) The gross proceeds of the sale or sales of materials, equipment, and machinery which enter into and become a component part of ships, vessels or barges of more than 50 tons burden, constructed or built within this state.

“(14) The gross proceeds of the sale or sales of fuel oil purchased as fuel for kiln use in manufacturing establishments.

“(15) The gross proceeds of the sale or sales of tangible personal property to county and city school boards, independent school boards and all educational institutions and agencies of the state of Alabama, the counties within the state or any incorporated municipality of the state of Alabama.

“(16) The gross proceeds from the sale of all devices or facilities, and all identifiable components thereof or materials for use therein, acquired primarily for the control, reduction or elimination of air or water pollution and the gross proceeds from the sale of all identifiable components of or materials used or intended for use in structures built primarily for the control, reduction or elimination of air and water pollution.

“(17) The gross proceeds of sales of tangible personal property or the gross receipts of any business which the state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

“(18) The gross proceeds of sale amounting to \$1,000.00 a month or less from small stores or vending stands operated by blind persons, as defined in section 1-1-3; provided, that such small business establishment shall be the property of the blind operator or of the business enterprise program for the blind, sponsored jointly by the state department of education and the Alabama

institute for the deaf and blind, that the operator shall have filed application for exemption as required in this subdivision and that the blind operator shall have been for a period of two years next preceding the filing of his application for this exemption a bona fide resident of the state of Alabama.

"Any persons claiming exemption hereunder shall file with the commissioner of revenue an application therefor in the form prescribed by the commissioner of revenue, accompanied by a vision certificate from a regularly licensed physician or ophthalmologist.

"Any person who procures a license under the provisions of this subdivision and permits any other person, firm or corporation to engage in or conduct business under this license shall be guilty of a misdemeanor and shall be punished as provided by law; and any person, firm or corporation, not entitled to exemptions hereunder, who engages in or conducts business under a license issued to a blind person under the provisions of this subdivision shall be guilty of a misdemeanor and shall be punished as provided by law.

"(19) When dealers or distributors use parts taken from stocks owned by them in making repairs without charge for such parts to the owner of the property repaired pursuant to warranty agreements entered into by manufacturers, such use shall not constitute taxable sales to the manufacturers, distributors or to the dealers, under this division or under any county sales tax law.

"(20) The gross proceeds received from the sale or furnishing of food, including potatoe chips, candy, fruit and similar items, soft drinks, tobacco products and stationery and other similar or related articles by hospital canteens operated by Alabama state hospitals at Bryce Hospital and Partlow State School for Mental Deficients at Tuscaloosa, Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the benefit of the patients therein.

"(21) The gross proceeds of the sale, or sales, of wrapping paper and other wrapping materials when used in preparing poultry or poultry products for delivery, shipment, or sale by the producer, processor, packer or seller of such poultry or poultry products including pallets used in shipping poultry and egg products, paper or other materials used for lining boxes or other containers in which poultry or poultry products are packed together with any other materials placed in such containers for the delivery, shipment or sale of poultry or poultry products.

"(22) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines or



medications, vitamins, minerals or other nutrients and all other feed ingredients including concentrates, supplements and other feed ingredients when such substances are used as ingredients in mixing and preparing feeds for fish raised to be sold on a commercial basis, livestock and poultry. Such exemption herein granted shall be in addition to exemption now provided by law for feed for fish raised to be sold on a commercial basis, livestock and poultry, but not including prepared foods for dogs or cats.

“(23) The gross proceeds of the sale, or sales, of seedlings, plants, shoots and slips which are to be used for planting vegetable gardens or truck farms. Nothing herein shall be construed to exempt, or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale, or the use of plants, seedlings, shoots, slips, nursery stock and floral products, except as hereinabove exempted.

“(24) The gross proceeds of the sale, or sales, of fabricated steel tube sections, when produced and fabricated in this state by any person, firm or corporation for any vehicular tunnel for highway vehicular traffic, when sold by the manufacturer or fabricator thereof, and also the gross proceeds of the sale, or sales, of steel which enter into and become a component part of such fabricated steel tube sections of said tunnel.

“(25) The gross proceeds from sales of admissions to any theatrical production, symphonic or other orchestral concert, ballet or opera production when such concert or production is presented by any society, association, guild or workshop group, organized within this state, whose members or some of whose members regularly and actively participate in such concerts or productions for the purposes of providing a creative outlet for the cultural and educational interests of such members, and of promoting such interests for the betterment of the community by presenting such productions to the general public for an admission charge.

“The employment of a paid director or conductor to assist in any such presentation described in this subdivision shall not be construed to prohibit the exemptions herein provided.

“(26) The gross proceeds of sales of herbicides for agricultural uses by whomsoever sold. The term “herbicides,” as used in this subdivision, means any substance or mixture of substances intended to prevent, destroy, repel or retard the growth of weeds or plants. It shall include preemergence herbicides, postemergence herbicides, lay-by herbicides, pasture herbicides, defoliant herbicides and dessicant herbicides.

“(27) The Alabama chapter of the cystic fibrosis research foundation, and the Jefferson tuberculosis sanatorium and any of their departments or agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, shall be exempted from the computation of the tax on the gross proceeds of all sales levied, assessed or payable.

“(28) The gross proceeds from the sale or sales of fuel for use or consumption aboard commercial fishing vessels are hereby exempt from the computation of all sales taxes levied, assessed, or payable under the provisions of this division or levied under any county or municipal sales tax law.

“The words ‘commercial fishing vessels’ shall mean vessels whose masters and owners are regularly and exclusively engaged in fishing as their means of livelihood.

“(29) The gross proceeds of sales of sawdust, wood shavings, wood chips and other like materials sold for use as ‘chicken litter’ by poultry producers and poultry processors.

“(30) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines and other medications including serums and vaccines, vitamins, minerals or other nutrients for use in the production and growing of fish, livestock and poultry by whomsoever sold. Such exemption as herein granted shall be in addition to the exemption provided by law for feeds for fish, livestock and poultry, and in addition to the exemptions provided by law for the above enumerated substances and products when mixed and used as ingredients in fish, livestock and poultry feeds.

“(31) The gross proceeds of the sale or sales of all medicines prescribed by physicians for persons who are 65 years of age or older, and when said prescriptions are filled by licensed pharmacists, shall be exempted under this division or under any county or municipal sales tax law. The exemption provided in this section shall not apply to any medicine purchased in any manner other than as is herein provided.

“For the purposes of this subdivision, proof of age may be accomplished by filing with the dispensing pharmacist any one or more of the following documents:

“a. The name and claim number as shown on a ‘Medicare’ card issued by the United States social security administration.

“b. A certificate executed by any adult person having

knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

"c. An affidavit executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

"For the purposes of this subdivision, any person filing a false proof of age shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of \$100.00.

"(32) There shall be exempted from the tax levied by this division the gross receipts of sales of grass sod of all kinds and character when in the original state of production or condition of preparation for sale, when such sales are made by the producer or members of his family or for him by those employed by him to assist in the production thereof; provided, that nothing herein shall be construed to exempt sales of sod by a person engaged in the business of selling plants, seedlings, nursery stock or floral products.

"(33) The gross receipts of sales of the following items or materials which are necessary in the farm to market production of tomatoes when such items or materials are used by the producer or members of his family or for him by those employed by him to assist in the production thereof: twine for tying tomatoes, tomato stakes, field boxes (wooden boxes used to take tomatoes from the fields to shed) and tomato boxes used in shipments to customers.

"(34) The gross proceeds from the sale of liquified petroleum gas sold to be used for agricultural purposes."

**Section 2.** Any violation of any provision of this Act shall be punishable in a court of competent jurisdiction by a fine of not less than \$500.00 and no more than \$2,000.00 and imprisonment of not less than 6 months nor more than 1 year in the county jail.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-626

H. 170—McKee

### AN ACT

To amend Section 40-23-4 of the Code of Alabama 1975, as amended, so as to exempt the gross receipts of sales from state nurseries of forest tree seed and

seedlings; in addition to forest tree seed and seedlings grown for commercial timber and game food purposes, *Lespedeza bicolor* and other species of perennial plant seed and seedlings grown and produced for out-planting as a source of game food are also exempted from taxation on the gross receipts from sales thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-23-4 of the Code of Alabama 1975, as amended, is hereby amended further to read as follows:

“§40-23-4.

“There are exempted from the provisions of this division and from the computation of the amount of the tax levied, assessed or payable under this division the following:

“(1) The gross proceeds of the sales of lubricating oil and gasoline as defined in sections 40-17-30 and 40-17-170, which are otherwise taxed.

“(2) The gross proceeds of the sale, or sales, of fertilizer. The word ‘fertilizer’ shall not be construed to include cottonseed meal, when not in combination with other materials.

“(3) The gross proceeds of the sale, or sales, of seeds for planting purposes and baby chicks and poults. Nothing herein shall be construed to exempt or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale or sales of plants, seedlings, nursery stock or floral products.

“(4) The gross proceeds of sales of insecticides and fungicides and feed for livestock and poultry, but not including prepared food for dogs and cats.

“(5) The gross proceeds of sales of all livestock by whomsoever sold, and also the gross proceeds of poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm.

“(6) Cottonseed meal exchanged for cottonseed at or by cotton gins.

“(7) The gross receipts from the business on which, or for engaging in which, a license or privilege tax is levied by or under the provisions of sections 40-21-50, 40-21-53 and 40-21-56 through

40-21-60; provided, that nothing contained in this subdivision shall be construed to exempt or relieve the person or persons operating the business enumerated in said sections from the payments of the tax levied by this division upon or measured by the gross proceeds of sales of any tangible personal property, except gas and water, the gross receipts from the sale of which are the measure of the tax levied by said section 40-21-50, merchandise or other tangible commodities sold at retail by said persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by the provisions of this division.

“(8) The gross proceeds of sales or gross receipts of or by any person, firm or corporation, from the sale of transportation, gas, water or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the public service commission of Alabama or like regulatory bodies.

“(9) The gross proceeds of the sale, or sales of coal or coke to manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products, or the generation of heat or power used in manufacturing tangible personal property for sale, for the generation of electric power or energy for use in manufacturing tangible personal property for sale or for resale, or for the generation of motive power for transportation.

“(10) The gross proceeds from the sale or sales of fuel and supplies for use or consumption aboard ships and towing vessels plying the high seas or gulf intracoastal waterway either in intercoastal trade between ports in the state of Alabama and ports in other states of the United States or its possessions or in foreign commerce between ports in the state of Alabama and ports in foreign countries; provided, that nothing in this division shall be construed to exempt or exclude from the measure of the tax herein levied the gross proceeds of sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of 50 tons burden or less.

“(11) The gross proceeds of sales of tangible personal property to the state of Alabama, to the counties within the state and to incorporated municipalities of the state of Alabama.

“(12) The gross proceeds of the sale or sales of railroad cars, and vessels and barges of more than 50 tons burden, when sold by the manufacturers or builders thereof.

“(13) The gross proceeds of the sale or sales of materials, equipment, and machinery which enter into and become a component part of ships, vessels or barges of more than 50 tons burden, constructed or built within this state.

“(14) The gross proceeds of the sale or sales of fuel oil purchased as fuel for kiln use in manufacturing establishments.

“(15) The gross proceeds of the sale or sales of tangible personal property to county and city school boards, independent school boards and all educational institutions and agencies of the state of Alabama, the counties within the state or any incorporated municipality of the state of Alabama.

“(16) The gross proceeds from the sale of all devices or facilities, and all identifiable components thereof or materials for use therein, acquired primarily for the control, reduction or elimination of air or water pollution and the gross proceeds from the sale of all identifiable components of or materials used or intended for use in structures built primarily for the control, reduction or elimination of air and water pollution.

“(17) The gross proceeds of sales of tangible personal property or the gross receipts of any business which the state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

“(18) The gross proceeds of sales amounting to \$1,000.00 a month or less from small stores or vending stands operated by blind persons, as defined in section 1-1-3; provided, that such small business establishment shall be the property of the blind operator or of the business enterprise program for the blind, sponsored jointly by the state department of education and the Alabama institute for the deaf and blind, that the operator shall have filed application for exemption as required in this subdivision and that the blind operator shall have been for a period of two years next preceding the filing of his application for this exemption a bona fide resident of the state of Alabama.

“Any persons claiming exemption hereunder shall file with the commissioner of revenue an application therefor in the form prescribed by the commissioner of revenue, accompanied by a vision certificate from a regularly licensed physician or ophthalmologist.

“Any person who procures a license under the provisions of this subdivision and permits any other person, firm or corporation to engage in or conduct business under this license shall be guilty of a misdemeanor and shall be punished as provided by law; and any

person, firm or corporation, not entitled to exemptions hereunder, who engages in or conducts business under a license issued to a blind person under the provisions of this subdivision shall be guilty of a misdemeanor and shall be punished as provided by law.

“(19) When dealers or distributors use parts taken from stocks owned by them in making repairs without charge for such parts to the owner of the property repaired pursuant to warranty agreements entered into by manufacturers, such use shall not constitute taxable sales to the manufacturers, distributors or to the dealers, under this division or under any county sales tax law.

“(20) The gross proceeds received from the sale or furnishing of food, including potato chips, candy, fruit and similar items, soft drinks, tobacco products and stationery and other similar or related articles by hospital canteens operated by Alabama state hospitals at Bryce Hospital and Partlow State School for Mental Deficients at Tuscaloosa, Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the benefit of the patients therein.

“(21) The gross proceeds of the sale, or sales, of wrapping paper and other wrapping materials when used in preparing poultry or poultry products for delivery, shipment, or sale by the producer, processor, packer or seller of such poultry or poultry products including pallets used in shipping poultry and egg products, paper or other materials used for lining boxes or other containers in which poultry or poultry products are packed together with any other materials placed in such containers for the delivery, shipment or sale of poultry or poultry products.

“(22) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines or medications, vitamins, minerals or other nutrients and all other feed ingredients including concentrates, supplements and other feed ingredients when such substances are used as ingredients in mixing and preparing feeds for fish raised to be sold on a commercial basis, livestock or poultry. Such exemption herein granted shall be in addition to exemption now provided by law for feed for fish raised to be sold on a commercial basis, livestock and poultry, but not including prepared foods for dogs or cats.

“(23) The gross proceeds of the sale, or sales, of seedlings, plants, shoots and slips which are to be used for planting vegetable gardens or truck farms. Nothing herein shall be construed to exempt, or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale, or the use of plants, seedlings, shoots, slips, nursery stock and floral products, except as hereinabove exempted.

"(24) The gross proceeds of the sale, or sales, of fabricated steel tube sections, when produced and fabricated in this state by any person, firm or corporation for any vehicular tunnel for highway vehicular traffic, when sold by the manufacturer or fabricator thereof, and also the gross proceeds of the sale, or sales, of steel which enter into and become a component part of such fabricated steel tube sections of said tunnel.

"(25) The gross proceeds from sales of admissions to any theatrical production, symphonic or other orchestral concert, ballet or opera production when such concert or production is presented by any society, association, guild or workshop group, organized within this state, whose members or some of whose members regularly and actively participate in such concerts or productions for the purposes of providing a creative outlet for the cultural and educational interests of such members, and of promoting such interests for the betterment of the community by presenting such productions to the general public for an admission charge.

"The employment of a paid director or conductor to assist in any such presentation described in this subdivision shall not be construed to prohibit the exemptions herein provided.

"(26) The gross proceeds of sales of herbicides for agricultural uses by whomsoever sold. The term "herbicides," as used in this subdivision, means any substance or mixture of substances intended to prevent, destroy, repel or retard the growth of weeds or plants. It shall include preemergence herbicides, postemergence herbicides, lay-by herbicides, pasture herbicides, defoliant herbicides and desiccant herbicides.

"(27) The Alabama chapter of the cystic fibrosis research foundation, and the Jefferson tuberculosis sanatorium and any of their departments or agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, shall be exempted from the computation of the tax on the gross proceeds of all sales levied, assessed or payable.

"(28) The gross proceeds from the sale or sales of fuel for use or consumption aboard commercial fishing vessels are hereby exempt from the computation of all sales taxes levied, assessed, or payable under the provisions of this division or levied under any county or municipal sales tax law.

"The words 'commercial fishing vessels' shall mean vessels whose masters and owners are regularly and exclusively engaged in fishing as their means of livelihood.



“(29) The gross proceeds of sales of sawdust, wood shavings, wood chips and other like materials sold for use as ‘chicken litter’ by poultry producers and poultry processors.

“(30) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines and other medications including serums and vaccines, vitamins, minerals or other nutrients for use in the production and growing of fish, livestock and poultry by whomsoever sold. Such exemption as herein granted shall be in addition to the exemption provided by law for feeds for fish, livestock and poultry, and in addition to the exemptions provided by law for the above enumerated substances and products when mixed and used as ingredients in fish, livestock and poultry feeds.

“(31) The gross proceeds of the sale or sales of all medicines prescribed by physicians for persons who are 65 years of age or older, and when said prescriptions are filled by licensed pharmacists, shall be exempted under this division or under any county or municipal sales tax law. The exemption provided in this section shall not apply to any medicine purchased in any manner other than as is herein provided.

“For the purposes of this subdivision, proof of age may be accomplished by filing with the dispensing pharmacist any one or more of the following documents:

“a. The name and claim number as shown on a ‘Medicare’ card issued by the United States social security administration.

“b. A certificate executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

“c. An affidavit executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

“For the purposes of this subdivision, any person filing a false proof of age shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of \$100.00.

“(32) There shall be exempted from the tax levied by this division the gross receipts of sales of grass sod of all kinds and character when in the original state of production or condition of preparation for sale, when such sales are made by the producer or members of his family or for him by those employed by him to assist in the production thereof; provided, that nothing herein shall be construed to exempt sales of sod by a person engaged in the business

of selling plants, seedlings, nursery stock or floral products.

“(33) The gross receipts of sales of the following items or materials which are necessary in the farm to market production of tomatoes when such items or materials are used by the producer or members of his family or for him by those employed by him to assist in the production thereof: twine for tying tomatoes, tomato stakes, field boxes (wooden boxes used to take tomatoes from the fields to shed) and tomato boxes used in shipments to customers.

“(34) The gross proceeds from the sale of liquified petroleum gas sold to be used for agricultural purposes.”

“(35) The gross receipts of sales from state nurseries of forest tree seedlings.

“(36) The gross receipts of sales of forest tree seed by the state.

“(37) The gross receipts of sales of *Lespedeza bicolor* and other species of perennial plant seed and seedlings sold for wildlife and game food production purposes by the state.”

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-627

H. 4—Lewis

### AN ACT

To make unlawful the obtaining or attempting to obtain public housing accommodations by means of false statement or other fraudulent scheme or device; to define “Public Housing”; to require notice of the act on applications for public housing accommodations; and to prescribe punishment for violation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** “Public Housing” as used herein shall mean housing which is constructed, operated or maintained by the state, a county, a municipal corporation, a housing authority, or by any other political subdivision or public corporation of the state or its subdivisions. Any person who obtains or attempts to obtain, or who establishes or attempts to establish, eligibility for and any person

who knowingly or intentionally aids or abets such person in obtaining or attempting to obtain, or in establishing, or attempting to establish eligibility for, any public housing, or a reduction in public housing rental charges, or any rent subsidy, to which such person would not otherwise be entitled, by means of a false statement, failure to disclose information, impersonation, or other fraudulent scheme or device shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$300.00 nor more than \$500.00 or be punished at hard labor for the county not to exceed sixty days, or may be both fined and imprisoned, at the discretion of the court.

**Section 2.** Notice of this act shall be printed on the application form for public housing and shall be displayed in the office where such application is made.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-628

H. 78—Manley

### AN ACT

To make a supplemental appropriation to the Alabama State Bar, from the Bar Association Fund in the state treasury, for the fiscal year ending September 30, 1980, for the purposes of salaries and other expenses.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated from the Bar Association Fund in the state treasury, for the fiscal year ending September 30, 1980, the sum of \$50,000 to the Alabama State Bar for the purposes of salaries and other expenses.

The appropriation herein made shall be in addition to any and all other funds heretofore or hereinafter appropriated to the Alabama State Bar.

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such

declaration shall not affect the part which remains.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-629

H. 305—Campbell, Kelley, Shoemaker  
AN ACT

To amend Sections 36-7-40 and 36-7-41, Code of Alabama, 1975, so as to increase from \$500.00 to \$750.00 the amount an employee shall be eligible to be reimbursed for job related moves or transfers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-7-40, Code of Alabama, 1975, is hereby amended to read as follows:

“A permanent employee of the state who moves from one community within the state to another by reason of transfer of job operation shall be entitled to receive reimbursement for his actual expenses, not to exceed \$750.00, incurred in moving his household goods whenever such transfer is made at the request of the employing state department or agency. Such expense shall not be allowed when the transfer is made at the request of the employee.”

**Section 2.** Section 36-7-41, Code of Alabama, 1975, is hereby amended to read as follows:

“The chief executive officer of the state department or agency is authorized to promulgate rules and regulations necessary to determine the eligibility of the employee for reimbursement of actual moving expenses and the amount to be paid, not to exceed the amount permitted under Section 36-7-40 of this chapter. Such rules and regulations may be amended, supplemented or changed at the discretion of the chief executive officer of the state department or agency in keeping with the needs of his department.

Such reimbursement may be made upon approval by the head of the state department or agency after the employee has been notified that his state department or agency is requiring his move and after the head of his state department or agency has determined that such employee is eligible for reimbursement under the established rules and regulations of his particular

department and after submission of such evidence by the employee to the head of his state department or agency of cost as may be required by the rules and regulations established.

Such moving cost paid to the employee under this article shall be paid out of the same fund of each such department or agency as payment for salaries and cost of administering the department or agency are paid."

**Section 3.** All laws and parts of laws in conflict herewith are hereby repealed.

**Section 4.** This act to take effect immediately upon its passage and approval by the Governor or its otherwise becoming law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-630

H. 709—Barton

### AN ACT

To amend Sections 40-4-5, 40-5-6, 40-5-14, 40-5-17, 40-7-19, 40-7-32 and 40-10-27, Code of Alabama 1975, relating to fees allowed tax assessors and/or tax collectors of this state for the following: for making demand on taxpayers for their list of property to be returned and for returns of property to "owner unknown", and for serving subpoenas for state witnesses or notices issued by order of the department of revenue or board of equalization; for making demand on delinquent taxpayers and for levy and sale of property; for the collection of delinquent taxes; for executing writs against the personal property of delinquent taxpayers who have left the county; for making demand against persons failing to make returns of taxable property; for making returns on escaped property; and for serving notice of delinquent property owners to show cause why a decree of sale should not be rendered; so as to increase the fees provided in said Sections, and to provide that all of the fees provided for in each of the sections amended by this act, when collected, shall be refunded to the fund or official paying the administrative costs of performing the functions for which said fees are provided.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-4-5 of the Code of Alabama 1975 is hereby amended to read as follows:

"§40-4-5. Schedule of fees.

"For making the demand on the taxpayer for his list of property to be returned and for each return of property to "owner unknown," to be charged to the taxpayer or property assessed and collected with the taxes, the assessor shall be entitled to \$2.50, to be

entered upon the return and assessment. But the assessor shall be entitled to only one demand fee against each taxpayer. For serving each subpoena for state witnesses or notice issued by order of the department of revenue or board of equalization, the assessor shall be entitled to receive \$2.50, to be taxed against the taxpayer and collected with the taxes, if the case made against such taxpayer is sustained; otherwise, he shall receive no fees for the serving of such subpoena."

**Section 2.** Section 40-5-6 of the Code of Alabama 1975 is hereby amended to read as follows:

"§40-5-6. Fees for demand on delinquent taxpayers and for levy and sale of property.

"For making actual demand on delinquent taxpayers, the collector shall be entitled to receive a fee of \$2.50 from each taxpayer on whom such demand is made, which shall be charged against such taxpayer and collected for the use of the collector in the same manner and by the same means as taxes are collected, but he shall charge only one fee against each taxpayer. For making a levy on and sale of personal property for the collection of taxes, the collector shall be allowed a fee of \$2.50 to be collected out of the property, and, in addition thereto, he shall be authorized to collect out of such property the actual expenses of keeping and moving the same to the place of sale. The collector may sell any personal property levied on at any place in the precinct that he may determine or may move the same to the courthouse of the county for sale. For the levy on and sale of a tract, parcel or lot of land assessed to one owner, or to "owner unknown", the collector shall receive a fee of \$2.50 in addition to the demand fee on such delinquent taxpayer, the said fee to be made a part of the judgment of sale and collected with the taxes due on the land sold or levied on for sale."

**Section 3.** Section 40-5-14 of the Code of Alabama 1975 is hereby amended to read as follows:

"§40-5-14. Levy and sale of personal property — Time; notice; location.

"After January 1 of each year, the tax collector must proceed, without delay, to levy upon the personal property of delinquent taxpayers for the payment of their taxes and, after having first given 10 days' notice of the time and place of sale, with a description of the property to be sold, by posting the same at three or more public places in the precinct of the residence of such delinquent, either at the time of assessment or of the levy, or, if he is a nonresident of the county, in the precinct in which the levy is made

he must sell the same, or so much thereof as may be necessary to satisfy the taxes, fees and expenses of sale, including the expenses of keeping the property and moving the same to the place of sale in front of the courthouse of the county, or at the voting place, or at the residence of such delinquent, or at any other place in the precinct in which such notice was posted, at public outcry to the highest bidder for cash, and the property so sold shall not be subject to redemption. For making such sale, the collector shall be allowed a fee of \$2.50, to be collected out of the property. Such taxpayer may, at any time before the sale, pay the taxes, interest, fees and expenses, including the collector's fees for the sale, the same as if it had been made, and thereby discharge the levy."

**Section 4.** Section 40-5-17 of the Code of Alabama 1975 is hereby amended to read as follows:

"§40-5-17. Same — When delinquent taxpayer has left county.

"When the collector has information that any person owing taxes in his county, whether due or not, has left the county, he shall make out and certify to the judge of probate a bill against such person and procure the approval thereof by the judge of probate in all respects as provided in section 40-5-31, and such bill shall operate as a writ of fieri facias, and the same may be executed by the collector if the personal property of the taxpayer is found in his county or may be by such collector forwarded to the collector of any county in which the taxpayer has any property, and the collector of such other county, on the receipt of such writ, shall file the same for record in the probate office in his county and, without delay shall give notice to the delinquent taxpayer in person or by certified or registered mail, return receipt demanded. On failure of said delinquent taxpayer to satisfy after 30 days from date of such notice the taxes, fees and costs due under the writ, in addition to the recording fee and a fee of \$2.50 for executing such writ, he shall proceed to execute the same as if issued in his county. He shall remit collections thereon to the collector sending him the writ and is liable under his bond for any neglect of duty under this section."

**Section 5.** Section 40-7-19 of the Code of Alabama 1975 is hereby amended to read as follows:

"§40-7-19. Demand against persons failing to make returns.

"After December 31 in each year, the assessor shall in person or by deputy make a demand upon all taxpayers who have failed to make return to him for a list of their taxable property, and such demand may be made by written notice left with the taxpayer at his

residence or place of business, or sent postpaid by certified or registered mail, with return receipt demanded, to the taxpayer's last known place of residence, and it shall be the duty of such taxpayer to return such list to the assessor on or before the third Monday in January following. For making this demand the tax assessor shall be entitled to a fee of \$2.50 to be paid by the taxpayer, which shall be added to the tax receipt and collected with the tax."

**Section 6.** Section 40-7-32 of the Code of Alabama 1975 is hereby amended to read as follows:

"§40-7-32. Fees of assessor for returns on escaped property.

"The assessor shall be entitled to a fee for making returns of property which has escaped taxation of \$2.50 for each assessment, provided if the escape is for more than one year, all back years shall be made on one assessment blank, and the current year's escape on a separate assessment for which he shall be entitled to an additional fee of \$2.50, such fee to be added to and collected with taxes due. In case of lands lying in one body, other than lands platted and subdivided into lots, the return shall be made on said lands as a whole, unless the assessor has reason to believe that they belong to different owners, in which case when lands lying in one body and supposed to belong to the same owner, must be included in one return, and no fee shall be allowed the assessor for any return made in disregard of this provision, but the assessment of any such property thereafter made shall not for that reason be invalid."

**Section 7.** Section 40-10-27 of the Code of Alabama 1975 is hereby amended to read as follows:

"§40-10-27. Fees.

"For each notice to a delinquent property owner to show cause why a decree of sale should not be rendered, the judge of probate is entitled to a fee of \$.25 and for each decree of sale, \$.25; the tax collector shall have \$2.50 for serving each notice which may be given by certified or registered mail with return receipt demanded, but for his attendance at court, he shall receive no pay; but in case of appeal, the sheriff and the clerk of the appellate court shall be entitled to the same fees as for services in like cases."

**Section 8.** All of the fees provided for in each of the statutes amended by this act, when collected, shall be refunded to the fund or official paying the administrative costs of performing the functions for which said fees are provided.

**Section 9.** Severability. The provisions of this act are severable. If any part of the act is declared invalid or



unconstitutional, such declaration shall not affect the part which remain.

**Section 10.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-631

H. 384—Lewis, Manley

### AN ACT

To amend Sections 32-6-60, 32-6-61, and 32-6-65, Code of Alabama 1975, regarding the issuance of motor vehicle license plates, so as to extend the period of use of the present license tag, alter the distribution schedule, require machine prepared receipts, provide a fine for driving without a current plate, to capture the color of the motor vehicle in state and county records, and to repeal in part Section 40-12-10, Code of Alabama 1975.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 32-6-60, 32-6-61, and 32-6-65, Code of Alabama 1975, are hereby amended to read as follows:

“§32-6-60.

“Effective from and after October 1, 1980, the licensing, registration and ad valorem taxation of motor vehicles in compliance with the laws of the State of Alabama shall be on a staggered basis. Provided, however, the actual distribution of the license plates described in Sections 32-6-63 and 32-6-64 shall begin from and after January 1, 1982. For the fiscal year 1981 the license plates used for the previous five years as set out in Section 32-6-50, Code of Alabama 1975, and Act No. 524, Regular Session 1975, shall continue to be used in the same manner as used in the past five years. An appropriate 1981 tab, disc or other device suitable for attaching to said motor vehicle tag or plate shall be issued upon the payment of the annual license tax prescribed by law for the 1981 fiscal year. While the actual issuance of license plates described in Sections 32-6-63 and 32-6-64, Code of Alabama 1975, on a staggered basis shall not begin until January 1, 1982, the licensing, registration and ad valorem taxation of motor vehicles shall be on a staggered basis effective from and after October 1, 1980.

“To implement this subdivision, the licensing, registration and taxation may be for periods less than or greater than 12 months

during the conversion year only. However, such proration of fees during the implementation of a staggered registration system shall result in the collection of a total amount of moneys for the taxable year no more nor less than the current annual amounts received.

"During the implementation period and thereafter the licensing, registration and taxation for vehicles weighing 12,001 pounds and over shall be prorated on a monthly basis."

"§32-6-61.

"The staggered system for the licensing, registration and taxation of motor vehicles shall be implemented thusly: The first letter of an individual's last name shall determine the month in which a vehicle owner shall register his vehicle(s), as indicated below:

"January	A, D
"February	B
"March	C, E
"April	F, G, N
"May	H, O
"June	M, I
"July	P, L
"August	J, K, R
"September	Q, S, T
"October	U, V, W, X, Y, Z, trucks, mobile homes, commercial and fleet vehicles
"November	Trucks, mobile homes, commercial and fleet vehicles

"After the conversion period all owners of private passenger vehicles and pickup trucks of 12,000 pounds and under shall continue to register their vehicles during the month assigned to the first initial of their last name. All license plates issued on a staggered registration basis shall expire on the last day of the month which precedes the month assigned for the purchase or renewal of license registration.

"All license plates issued to motor vehicles for which licensing, registration and taxation is due in October and November shall expire on September 30.

"During the implementation period and thereafter all licensing, registration and ad valorem taxation of motor vehicles shall be prorated on a monthly basis.

"All persons who acquire a motor vehicle which is located in

this state and required to be registered in this state, with exception of licensed motor vehicle dealers who purchase a vehicle for resale, shall within ten calendar days from date of purchase re-register the vehicle with the probate judge or other county official authorized and required by law to issue license plates, of the county in which the owner resides, if the owner is an individual, or of the county in which said motor vehicle is used or operated if the owner is a firm, corporation or association. The owner shall be issued a new registration receipt and purchase a license plate or validation decal(s) to the appropriate month assigned for renewal; however, no additional fee or ad valorem tax need be paid other than registration issuance fee when renewal month and year remain the same.

“§32-6-65.

“(a) There shall be one uniform registration renewal form to be used statewide. Such form shall be designed so as to provide for both the transfer of ownership and the registration of the vehicle. The department of revenue, or any other state agency authorized to do so, shall print and issue vehicle registration renewal notices in such a way that they can be processed or read by ‘optical character reader’ machines. All receipts shall be sent to the county agencies charged with handling vehicle registration. All receipts shall be machine prepared. The state and the county shall capture the color of the motor vehicle in their permanent records. This paragraph shall not give the department of revenue authority to centralize vehicle registration. Centralized registration is specifically prohibited and it is the legislative intent that automotive vehicle registration shall remain at the county level.

“(b) A penalty of \$15.00 shall be assessed by the official charged with issuing motor vehicle licenses for the late registration of a motor vehicle under the system of registration imposed by this subdivision. Licenses shall be renewed at any time during the month of expiration; provided, however, persons renewing licenses within ten calendar days after the month of expiration shall pay only a \$2.00 penalty fee. Persons renewing licenses twenty (20) days after the \$2.00 penalty fee time limit shall pay \$15.00. Persons renewing licenses after the \$15.00 penalty fee shall pay \$25.00. It shall be the duty of all sheriffs, police officers, state troopers, license inspectors, deputy license inspectors, field agents of the department of revenue, and other law enforcement officers to arrest any person operating a motor vehicle without the current license plate displaying the proper tab, disc or decal. Persons apprehended, more than ten days after the month of expiration of the license, upon conviction by a court of competent jurisdiction,

shall be fined not less than \$25.00.

“All penalties assessed by this Act shall be distributed in the same manner as motor vehicle licenses and registration fees are distributed as provided in Sections 40-12-269 and 40-12-270, Code of Alabama 1975. Portions of Section 40-12-10, Code of Alabama 1975, as they may conflict with this Act, are hereby repealed and superseded.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-632

H.J.R. 330—Greer, Coburn, Smith (C)

### HOUSE JOINT RESOLUTION

**URGING THE BOARDS OF EDUCATION TO ADOPT A POLICY OF ALLOWING KINDERGARTENS TO HOLD TWO SESSIONS, ONE IN THE SPRING AND ONE IN THE FALL.**

**WHEREAS**, the Legislature of Alabama recognizes the important role that the kindergarten plays in the overall educational development of children; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING**, That the state and local boards of education at their option are urged to adopt a policy of allowing two kindergarten schedules, one session in the Spring and one session in the Fall.

**BE IT FURTHER RESOLVED**, That copies of this resolution be sent to Dr. Wayne Teague, State Superintendent of Education.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-633

H. 81—Manley

AN ACT

To provide further for the organization, admission, consolidation, merger and dissolution of certain corporations, and to prescribe the powers, authority and duties of such corporations, and of the officers, directors and shareholders thereof; subject to the provisions of Section 188 of this Act, to repeal Sections 10-2-1 through 10-2-7, 10-2-20, 10-2-22 through 10-2-35, 10-2-50 through 10-2-58, 10-2-70, 10-2-71, 10-2-90 through 10-2-98, 10-2-110, 10-2-111, 10-2-112, 10-2-113, 10-2-114, 10-2-130 through 10-2-135, 10-2-150, 10-2-160, 10-2-161, 10-2-162, 10-2-164 through 10-2-167, 10-2-169, 10-2-180 through 10-2-189, 10-2-200 through 10-2-212, 10-2-250 through 10-2-253, 10-2-254, 10-2-256 and 12-11-34 through 12-11-39, of the Code of Alabama of 1975.

*Be It Enacted by the Legislature of Alabama:*

## **Section 1. SHORT TITLE AND PURPOSES.**

This Act shall be known and may be cited as the Alabama Business Corporation Act.

Corporations may be organized under this Act for any lawful purpose or purposes.

## **Section 2. DEFINITIONS.**

As used in this Act, unless the context otherwise requires, the term:

(a) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.

(b) "Authorized shares" means the shares of all classes which the corporation is authorized to issue.

(c) "Capital surplus" means the entire surplus of a corporation other than its earned surplus.

(d) "Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this Act, except a foreign corporation.

(e) "Earned Surplus" means the portion of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent such distributions and transfers are made out of earned surplus. Earned surplus shall include also any portion of surplus allocated to earned surplus in mergers, consolidations or acquisitions of all or substantially all of the outstanding shares or of the property and assets of another corporation, domestic or foreign.

(f) "Employee" includes officers but not directors. A director may accept duties which make him also an employee.

(g) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this State for a purpose or purposes for which a corporation may be organized under this Act.

(h) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its business.

(i) "Net assets" means the amount by which the total assets of a corporation exceed the total debts of the corporation.

(j) "Partner" includes partners in general partnerships and limited partnerships.

(k) "Partnership" includes general partnerships and limited partnerships.

(l) "Probate Judge" means the probate judge of the county in which the corporation's articles of incorporation are filed or, in the case of corporations existing on the effective date of this Act, the corporation's certificate of incorporation was filed, unless otherwise provided in this Act.

(m) "Shareholder" means one who is a holder of record of shares in a corporation. If the articles of incorporation or the by-laws so provide, the board of directors may adopt by resolution a procedure whereby a shareholder of the corporation may certify in writing to the corporation that all or a portion of the shares registered in the name of such shareholder are held for the account of a specified person or persons. The resolution shall set forth (1) the classification of shareholder who may certify, (2) the purpose or purposes for which the certification may be made, (3) the form of certification and information to be contained therein, (4) if the certification is with respect to a record date or closing of the stock transfer books, the time within which the certification must be received by the corporation and (5) such other provisions with respect to the procedure as are deemed necessary or desirable. Upon receipt by the corporation of a certification complying with the procedure, the persons specified in the certification shall be deemed, for the purpose or purposes set forth in the certification, to be the holders of record of the number of shares specified in place of the shareholder making the certification.

(n) "Shares" means the units into which the proprietary interests in a corporation are divided.

(o) "Stated capital" means, at any particular time, the sum of

(1) the par value of all shares of the corporation having a par value that have been issued, (2) the amount of the consideration received by the corporation for all shares of the corporation without par value that have been issued, except such part of the consideration therefor as may have been allocated to capital surplus in a manner permitted by law, and (3) such amounts not included in clauses (1) and (2) of this paragraph as have been transferred to stated capital of the corporation, whether upon the issues of shares as a share dividend or otherwise, minus all reductions from such sum as have been effected in a manner permitted by law. Irrespective of the manner of designation thereof by the laws under which a foreign corporation is organized, the stated capital of a foreign corporation shall be determined on the same basis and in the same manner as the stated capital of a domestic corporation for the purpose of computing fees and other charges imposed by law, except franchise taxes.

(p) "Subscriber" means one who subscribes for shares in a corporation, whether before or after incorporation.

(q) "Surplus" means the excess of the net assets of a corporation over its stated capital.

(r) "Treasury shares" means shares of a corporation which have been issued, have been subsequently acquired by and belong to the corporation, and have not, either by reason of the acquisition or thereafter, been cancelled or restored to the status of authorized but unissued shares. Treasury shares shall be deemed to be "issued" shares, but not "outstanding" shares.

(s) "Verified" means supported by an affidavit or oath confirming the correctness, truth or authenticity of the matters set forth therein.

### **Section 3. GENERAL POWERS.**

Each corporation shall have power:

(a) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(b) To sue and be sued, complain and defend, in its corporate name.

(c) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(d) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or

personal property, or any interest therein, wherever situated.

(e) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(f) To lend money and use its credit to assist its employees.

(g) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district, or municipality or of any instrumentality thereof.

(h) To make contracts, guarantees, and indemnity agreements and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage, pledge of, or creation of security interests in, all or any of its property, franchises, or income, or any interest therein, not inconsistent with the provisions of the Constitution of Alabama as the same may be amended from time to time.

(i) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(j) To conduct its business, carry on its operations and have offices and exercise the powers granted by this Act, within or without this State.

(k) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.

(l) To make and alter by-laws, not inconsistent with its articles of incorporation or with the laws of this State, for the administration and regulation of the affairs of the corporation.

(m) To make donations for the public welfare or for charitable, scientific, or educational purposes.

(n) To transact any lawful business which the board of directors shall find will be in aid of governmental policy.

(o) To pay pensions and establish pension plans, pension trusts, profit sharing plans, stock bonus plans, stock option plans and other incentive plans for any or all of its directors, officers and employees.



(p) To be a promoter, incorporator, partner, member, trustee, associate, or manager of any domestic or foreign corporation, partnership, joint venture, trust, or other enterprise.

(q) To consolidate or merge, before or after the completion of its works or plants, in the manner herein provided, with any other foreign or domestic corporation or corporations; but no corporation formed for the purpose of carrying on the business of banking or insurance shall consolidate or merge with any other corporation than corporations engaged in the business of banking or insurance or trust companies doing a banking business. No railroad shall consolidate or merge with any other than railroad corporations or companies; but when any two or more railroads or contemplated railroads, which, when completed will admit the passage of burden or passenger cars over any two or more such railroads, continuously and without break or interruption directly or by means of intervening lines, such companies may, before or after completion, consolidate or merge.

(r) To have and exercise all powers necessary or convenient to effect its purposes.

#### **Section 4. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS.**

(a) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed claim, action, suit, or proceeding, whether civil, criminal, administrative or investigative, including appeals, (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, employee, or agent of another corporation partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit, or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and with respect to any criminal action or proceeding, had reasonable cause to believe that his

conduct was unlawful.

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) To the extent that a director, officer, employee, or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

(d) Any indemnification under subsections (a) and (b) (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the shareholders.

(e) Expenses (including attorneys' fees) incurred in

defending a civil or criminal claim, action, suit, or proceeding may be paid by the corporation in advance of the final disposition of such claim, action, suit, or proceeding as authorized in the manner provided in subsection (d) upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay such amount if and to the extent that it shall be ultimately determined that he is not entitled to be indemnified by the corporation as authorized in this section.

(f) The indemnification authorized by this section shall not be deemed exclusive of and shall be in addition to any other right (whether created prior or subsequent to the enactment of this section) to which those indemnified may be entitled under any statute, rule of law, provisions of articles of incorporation, by-law, agreement, vote of shareholders or disinterested directors, or otherwise both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

(g) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section.

## **Section 5. RIGHT OF CORPORATION TO ACQUIRE AND DISPOSE OF ITS OWN SHARES.**

A corporation shall have the right to purchase, take, receive or otherwise acquire, hold, own, pledge, and transfer or otherwise dispose of its own shares, but purchases of its own shares, whether direct or indirect, shall be made only to the extent of unreserved and unrestricted earned surplus available therefor, and, if the articles of incorporation so permit or with the affirmative vote of the holders of two-thirds of all shares entitled to vote there to the extent of unreserved and unrestricted capital surplus available therefor.

To the extent that earned surplus or capital surplus is used as the measure of the corporation's right to purchase its own shares,

such surplus shall be restricted so long as such shares are held as treasury shares, and upon the disposition or cancellation of any such shares the restriction shall be removed pro tanto.

Notwithstanding the foregoing limitation, a corporation may purchase or otherwise acquire its own shares for the purpose of:

- (a) Eliminating fractional shares.
- (b) Collecting or compromising indebtedness to the corporation.
- (c) Paying dissenting shareholders entitled to payment for their shares under the provisions of this Act.
- (d) Effecting, subject to the other provisions of this Act, the retirement of its redeemable shares by redemption or by purchase at not to exceed the redemption price.

No purchase of or payment for its own shares shall be made at a time when the corporation is insolvent or when such purchase would make it insolvent.

## **Section 6. DEFENSE OF ULTRA VIRES.**

No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(a) In a proceeding by a shareholder against the corporation to enjoin the doing of any act or the transfer of real or personal property by or to the corporation. If the unauthorized act or transfer sought to be enjoined is being, or is to be, performed or made pursuant to a contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or to the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(b) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative or through shareholders in a representative suit, against the incumbent or former officers or directors of the corporation.

(c) In a proceeding by the Attorney General, as provided in this Act, to dissolve the corporation, or in a proceeding by the Attorney General to enjoin the corporation from the transaction of unauthorized business.

## **Section 7. CORPORATE NAME.**

The corporate name:

(a) Shall contain, in the case of any corporation organized after the effective date of this Act, the word "corporation" or "incorporated" or shall contain an abbreviation of one of such words.

(b) Shall not contain, in the case of any corporation organized after the effective date of this Act, any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(c) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this State or any foreign corporation authorized to transact business in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided in this Act, or the name of a corporation which has in effect a registration of its corporate name as provided in this Act, except that this provision shall not apply if the applicant files with the Secretary of State either of the following: (1) the written consent of such other corporation or holder of a reserved or registered name to use the same or deceptively similar name and one or more words are added to make such name distinguishable from such other name, or (2) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of such name in this State.

A corporation with which another corporation, domestic or foreign, is merged, or which is formed by the reorganization or consolidation of one or more domestic or foreign corporations or upon a sale, lease, or other disposition to or exchange with, a domestic corporation of all or substantially all the assets of another corporation, domestic or foreign, including its name, may have the same name as that used in this State by any of such corporations if such other corporation was organized under the laws of, or is authorized to transact business in, this State.

## **Section 8. RESERVED NAME.**

The exclusive right to the use of a corporate name may be

reserved by:

(a) Any person, partnership, domestic corporation, or foreign corporation intending to organize a corporation under this Act.

(b) Any domestic corporation intending to change its name.

(c) Any foreign corporation intending to make application for a certificate of authority to transact business in this State.

(d) Any foreign corporation authorized to transact business in this State and intending to change its name.

(e) Any person, partnership, domestic corporation, or foreign corporation intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this State.

The reservation shall be made by filing with the Secretary of State an application to reserve a specified corporate name, executed by the applicant and, in the case of a domestic corporation, specifying the county in which the corporation was or is proposed to be incorporated. The name may also be reserved by telephone or other electronic means, subject to such requirements as the Secretary of State may establish for reservation of corporate name by such means. If the Secretary of State finds that the name is available for corporate use, he shall reserve the same for the exclusive use of the applicant for a period of 120 days and shall issue to the applicant a certificate showing that the name has been reserved and, in the case of a domestic corporation, specifying the county in which the corporation has been or is proposed to be incorporated.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person, partnership, domestic corporation or foreign corporation by filing in the office of the Secretary of State a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

## **Section 9. REGISTERED NAME.**

Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this Act, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this State, or the name of any foreign corporation authorized to transact business in this State, or any corporate name reserved or registered under this Act.

Such registration shall be made by:

(a) Filing with the Secretary of State (1) an application for registration executed for the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (2) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the Secretary of State of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(b) Paying to the Secretary of State a registration fee in the amount of one dollar for each month, or fraction thereof, between the date of filing such application and December 31st of the calendar year in which such application is filed, but not less than five dollars.

Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

#### **Section 10. RENEWAL OF REGISTERED NAME.**

A corporation, which has in effect a registration of its corporate name, may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of \$12.00. A renewal application may be filed between the first day of October and the thirty-first day of December in each year, and shall extend the registration for the following calendar year.

#### **Section 11. REGISTERED OFFICE AND REGISTERED AGENT.**

Each corporation shall have and continuously maintain in this State:

(a) A registered office which may be, but need not be, the same as its place of business.

(b) A registered agent, which agent may be either an individual resident in this State whose business office is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this State, having a business office identical with such registered office.

(c) The Secretary of State shall keep an alphabetical list of domestic and foreign corporations, whose statements of incorporation, certificates of incorporation, or applications for certificate of authority are filed in said office, together with the data contained in such documents.

## **Section 12. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT.**

A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the Secretary of State a statement setting forth:

- (a) The name of the corporation.
- (b) The address of its then registered office.
- (c) If the address of its registered office is to be changed, the address to which the registered office is to be changed.
- (d) The name of its then registered agent.
- (e) If its registered agent is to be changed, the name of its successor registered agent.
- (f) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.
- (g) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed for the corporation by its president, or a vice president, and verified by him, and delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to the provisions of this Act, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the Secretary of State, who shall forthwith mail a copy thereof to the corporation at its registered office. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the Secretary of State.

If a registered agent changes his or its business address to another place within the same county, he or it may change such address and the address of the registered office of any corporation of which he or it is registered agent by filing a statement as



required above except that it need be signed only by the registered agent and need not be responsive to (e) or (g) and must recite that a copy of the statement has been mailed to the corporation.

### **Section 13. SERVICE OF PROCESS ON CORPORATION.**

The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then it may be served as provided by the Alabama Rules of Civil Procedure.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

### **Section 14. AUTHORIZED SHARES.**

Each corporation shall have power to create and issue the number of shares stated in its article of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny voting rights of or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this Act and the Constitution of Alabama as the same may be amended from time to time.

Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

(a) Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof.

(b) Entitling the holders thereof to cumulative, non-cumulative or partially cumulative dividends.

(c) Having preference over any other class or classes of shares as to the payment of dividends.

(d) Having preference in the assets of the corporation over any other class or classes of shares upon the voluntary or

involuntary liquidation of the corporation.

(e) Convertible into shares of any other class or into shares of any series of the same or any other class, but shares without par value shall not be converted into shares with par value unless that part of the stated capital of the corporation represented by such shares without par value is, at the time of conversion, at least equal to the aggregate par value of the shares into which the shares without par value are to be converted or the amount of any such deficiency is transferred from surplus to stated capital.

(f) Subject to limitation with respect to any one or more of the dividends payable thereon, and participation in earnings, assets, and property rights and interests of the corporation.

#### **Section 15. ISSUANCE OF SHARES OF PREFERRED OR SPECIAL CLASSES IN SERIES.**

If the articles of incorporation so provide, and if such action is not inconsistent with the provisions of the Constitution of Alabama, as the same may be amended from time to time, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed and determined by the articles of incorporation, but all shares of the same class shall be identical except as to the following relative rights and preferences, as to which there may be variations between different series:

(A) The rates, preferences, cumulation provisions, and time of payment of dividends.

(B) Whether shares may be redeemed and, if so, the redemption price and the terms and conditions of redemption.

(C) The amount payable upon shares in event of voluntary and involuntary liquidation.

(D) Sinking fund provisions, if any, for the redemption or purchase of shares.

(E) The terms and conditions, if any, on which shares may be converted.

(F) Voting rights, if any.

If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of

incorporation shall not have established series and fixed and determined the variations in the relative rights and preferences as between series, the board of directors shall have authority to divide any or all of such classes into series and, within the limitations set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established.

In order for the board of directors to establish a series, where authority so to do is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation.

Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall file in the office of the Probate Judge a statement setting forth:

- (a) The name of the corporation.
- (b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof.
- (c) The date of adoption of such resolution.
- (d) That such resolution was duly adopted by the board of directors.

Such statement shall be executed for the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement. Such statement shall be delivered to the Probate Judge. If the Probate Judge finds that such statement conforms to law, he shall, when all fees prescribed in this Act have been paid:

- (1) Endorse on the statement the word "Filed", and the hour, day, month, and year of the filing thereof.
- (2) File such statement in his office.

Upon filing of such statement, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation.

## **Section 16. SUBSCRIPTIONS FOR SHARES.**

A subscription for shares of a corporation to be organized shall be irrevocable for a period of six months, unless otherwise provided

by the terms of the subscription agreement or unless all of the subscribers consent to the revocation of such subscription.

Unless otherwise provided in the subscription agreement, subscriptions for shares, whether made before or after the organization of a corporation, shall be paid in full at such time, or in such installments and at such times, as shall be determined by the board of directors. Any call made by the board of directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series, as the case may be. In case of default in the payment of any installment or call when such payment is due, the corporation may proceed to collect the amount due in the same manner as any debt due the corporation. The by-laws may prescribe other penalties for failure to pay installments or calls that may become due, but no penalty working a forfeiture of a subscription, or of the amounts paid thereon, shall be declared as against any subscriber unless the amount due thereon shall remain unpaid for a period of twenty days after written demand has been made therefor. If mailed, such written demand shall be deemed to be made when deposited in the United States mail in a sealed envelope addressed to the subscriber at his last post-office address known to the corporation, with postage thereon prepaid. In the event of the sale of any shares by reason of any forfeiture, the excess of proceeds realized over the amount due and unpaid on such shares shall be paid to the delinquent subscriber or to his legal representative.

#### **Section 17. CONSIDERATION FOR SHARES.**

Shares having a par value may be issued for such consideration expressed in dollars, not less than the par value thereof, as shall be fixed from time to time by the board of directors.

Shares without par value may be issued for such consideration expressed in dollars as may be fixed from time to time by the board of directors unless the articles of incorporation reserve to the shareholders the right to fix the consideration. In the event that such right be reserved as to any shares, the shareholders shall, prior to the issuance of such shares, fix the consideration to be received for such shares, by a vote of the holders of a majority of all shares entitled to vote thereon.

Treasury shares may be disposed of by the corporation for such consideration expressed in dollars as may be fixed from time to time by the board of directors.

That part of the surplus of a corporation which is transferred to stated capital upon the issuance of shares as a share dividend shall

be deemed to be the consideration for the issuance of such shares.

In the event of the issuance of shares upon the conversion or exchange of indebtedness or shares, the consideration for the shares so issued shall be (1) the principal sum of, and accrued interest on, the indebtedness so exchanged or converted or the stated capital then represented by the shares so exchanged or converted, and (2) that part of surplus, if any, transferred to stated capital upon the issuance of shares for the shares so exchanged or converted, and (3) any additional consideration paid to the corporation upon the issuance of shares for the indebtedness or shares so exchanged or converted.

#### **Section 18. PAYMENT FOR SHARES.**

The consideration for the issuance of shares may be paid, in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be deemed to be fully paid and non-assessable.

Neither promissory notes nor future services shall constitute payment or part payment for the issuance of shares of a corporation.

In the absence of fraud in the transaction, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive.

#### **Section 19. STOCK RIGHTS AND OPTIONS.**

Subject to any provisions in respect thereof set forth in its articles of incorporation, a corporation may create and issue, whether or not in connection with the issuance and sale of any of its shares or other securities, rights or options entitling the holders thereof to purchase from the corporation shares of any class or classes. Such rights or options shall be evidenced in such manner as the board of directors shall approve and, subject to the provisions of the articles of incorporation, shall set forth the terms upon which, the time or times within which and the price or prices at which such shares may be purchased from the corporation upon the exercise of any such right or option. If such rights or options are to be issued to directors, officers or employees as such of the corporation or of any subsidiary thereof, and not to the shareholders generally, their issuance shall be approved by the affirmative vote of the holders of a majority of the shares entitled to vote thereon or shall be authorized by and consistent with a plan approved or ratified by such a vote of shareholders. In the absence of fraud in the transaction, the

judgment of the board of directors as to the adequacy of the consideration received for such rights or options shall be conclusive. The price or prices to be received for any shares having a par value, other than treasury shares to be issued upon the exercise of such rights or options, shall not be less than the par value thereof.

## **Section 20. DETERMINATION OF AMOUNT OF STATED CAPITAL.**

In case of the issuance by a corporation of shares having a par value, the consideration received therefor shall constitute stated capital to the extent of the par value of such shares, and the excess, if any, of such consideration shall constitute capital surplus.

In case of the issuance by a corporation of shares without par value, the entire consideration received therefor shall constitute stated capital unless the corporation shall determine as provided in this section that only a part thereof shall be stated capital. Within a period of sixty days after the issuance of any shares without par value, the board of directors may allocate to capital surplus any portion of the consideration received for the issuance of such shares. No such allocation shall be made of any portion of the consideration received for shares without par value having a preference in the assets of the corporation in the event of involuntary liquidation except the amount, if any, of such consideration in excess of such preference.

If shares have been or shall be issued by a corporation in merger or consolidation or in acquisition of all or substantially all of the outstanding shares or of the property and assets of another corporation, whether domestic or foreign, any amount that would otherwise constitute capital surplus under the foregoing provisions of this section may instead be allocated to earned surplus by the board of directors of the issuing corporation except that its aggregate earned surplus shall not exceed the sum of the earned surpluses as defined in this Act of the issuing corporation and of all other corporations, domestic or foreign, that were merged or consolidated or of which the shares or assets were acquired.

The stated capital of a corporation may be increased from time to time by resolution of the board of directors directing that all or a part of the surplus of the corporation be transferred to stated capital. The board of directors may direct that the amount of the surplus so transferred shall be deemed to be stated capital in respect of any designated class of shares.

## **Section 21. EXPENSES OF ORGANIZATION,**

**REORGANIZATION AND FINANCING.**

The reasonable charges and expenses of organization or reorganization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by such corporation out of the consideration received by it in payment for its shares without thereby rendering such shares not fully paid or assessable.

**Section 22. CERTIFICATES REPRESENTING SHARES.**

The shares of a corporation shall be represented by certificates signed by the chairman of the board, president, an executive vice president, a vice president, or the treasurer and by the secretary, an assistant vice president, an assistant secretary, or an assistant treasurer, and may be sealed with the seal of the corporation or a facsimile thereof. The signature of any one of these officers upon a certificate may be a facsimile if the certificate is signed by another of such officers, and the signatures of both of such officers may be facsimiles if the certificate is countersigned by a transfer agent, or registered by a registrar, other than the corporation itself or an employee of the corporation. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issue.

Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the shares of each class authorized to be issued, and if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

Each certificate representing shares shall state upon the face thereof:

- (a) That the corporation is organized under the laws of this State.
- (b) The name of the person to whom issued.

(c) The number and class of shares, and the designation of the series, if any, which such certificate represents.

(d) The par value of each share represented by such certificate, or a statement that the shares are without par value. Provided, however, that for shares having a par value, a statement on the stock certificate that the par value of each share represented thereby will be as set forth from time to time in the articles of incorporation of the company, as amended, shall be sufficient.

Shares or interest in the stock of corporations are personal property, transferable on the books of the corporation in the manner provided by law.

No certificate shall be issued for any share until such share is fully paid.

Abbreviations may be used in the inscribing of certificates representing shares of stock. Without limiting the use of other abbreviations, however, the following or substantially similar abbreviations, may be used in the inscribing of such certificates only if explained on the face or back of the certificates, and shall be construed as though they were written out in full and shall be accorded the meaning ascribed herein:

Abbreviations:	Meaning:
TEN COM .....	as tenants in common
JT TEN .....	as joint tenants with right of survivorship and not as tenants in common
.....	.....
(name of Custodian)	(name of Custodian)
Custodian ..... Unif	as Custodian for .....
(minor)	(name
Gift Min Act .....	..... under the.....
(state)	of minor) (name
	..... Uniform Gifts
	of state)
	to Minors Act

### **Section 23. RESTRICTION ON TRANSFER OF SECURITIES.**

(a) A written restriction on the transfer or registration of transfer of securities of a corporation, if permitted by this section and noted conspicuously on the security, may be enforced against the holder of the restricted security or any successor or transferee of the holder including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder. Unless noted conspicuously on the security, a



restriction, even though permitted by this section, is ineffective except against a person with actual knowledge of the restriction.

(b) A restriction on the transfer or registration of transfer of securities of a corporation may be imposed either by the articles of incorporation or by the by-laws or by an agreement among any number of security holders or among such holders and the corporation. No restriction so imposed shall be binding with respect to securities issued prior to the adoption of the restriction unless the holders of the securities are parties to an agreement or voted in favor of the restriction.

(c) A restriction on the transfer of securities of a corporation is permitted by this section if it:

(1) Obligates the holder of the restricted securities to offer to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing, a prior opportunity, to be exercised within a reasonable time, to acquire the restricted securities; or

(2) Obligates the corporation or any holder of securities of the corporation or any other person or any combination of the foregoing, to purchase the securities which are the subject of an agreement respecting the purchase and sale of the restricted securities; or

(3) Requires the corporation or the holders of any class of securities of the corporation to consent to any proposed transfer of the restricted securities or to approve the proposed transferee of the restricted securities; or

(4) Prohibits the transfer of the restricted securities to designated persons or classes of persons, and such designation is not manifestly unreasonable.

(d) Any restriction on the transfer of the securities of a corporation for one of the following purposes is conclusively presumed to be for a reasonable purpose:

(1) For the purpose of maintaining its status as an electing small business corporation, as defined in subchapter S of the United States Internal Revenue Code of 1954 or any later such code, in the amended form in which the same shall be effective with reference to such electing small business corporations; and

(2) For the purpose of complying with the securities laws of any jurisdiction.

(e) In addition to the restrictions specifically permitted, any

other reasonable restriction on transfer or registration of transfer of securities is permitted by this section.

#### **Section 24. FRACTIONAL SHARES.**

A corporation may, but shall not be required to, issue fractions of a share. If it does not issue fractions of a share, it shall (1) arrange for the disposition of fractional interests by those entitled thereto, (2) pay in cash the fair value of fractions of a share as of the time when those entitled to receive such fractions are determined, or (3) issue scrip in registered or bearer form which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip aggregating a full share. A certificate for a fractional share shall, but scrip shall not unless otherwise provided therein, entitle the holder to exercise voting rights, to receive dividends thereon, and to participate in any of the assets of the corporation in the event of liquidation. The board of directors may cause scrip to be issued subject to the condition that it shall become void if not exchanged for certificates representing full shares before a specified date, or subject to the condition that the shares for which scrip is exchangeable may be sold by the corporation and the proceeds thereof distributed to the holders of scrip, or subject to any other conditions which the board of directors may deem advisable.

#### **Section 25. LIABILITY OF SUBSCRIBERS AND SHAREHOLDERS.**

A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or to be issued.

Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable to the corporation or its creditors for any unpaid portion of such consideration, but the transferor shall remain liable therefor.

An executor, administrator, conservator, custodian under a gift to minors act of this or any other state, guardian, trustee, assignee for the benefit of creditors, or receiver shall not be personally liable to the corporation as a holder of or subscriber to shares of a corporation but the estate and funds in his hands shall be so liable.

No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder.

Any corporation may have a lien on the shares of its shareholders for any debt or liability incurred to it by such shareholders before notice of transfer of or levy on such shares, if the right to such a lien is provided for in the articles of incorporation and is plainly recited on its certificates for shares of stock.

#### **Section 26. SHAREHOLDERS' PRE-EMPTIVE RIGHTS.**

Unless otherwise provided in the articles of incorporation or an amendment thereto, every shareholder entitled to vote for the election of directors shall have the pre-emptive right to purchase his proportion of the issuance of any class of shares, including treasury shares, according to the proportion of his holdings of such class of shares, at such price, which may be in excess of par value, within such time, and on such terms as shall be fixed and determined by the board of directors; provided, however, that nothing herein contained shall prevent the inclusion of or invalidate provisions in the articles of incorporation or an amendment thereto which deny pre-emptive rights to the holders of any class of shares or grant pre-emptive rights to the holders of any class of shares or grant pre-emptive rights to the holders of preferred shares or other shares not having voting power nor shall anything herein be construed to give pre-emptive rights to the holders of preferred shares having the right to elect one or more directors of the corporation only in the event of default in payment of dividends on such preferred shares or other default.

#### **Section 27. BY-LAWS.**

The initial by-laws of a corporation shall be adopted by the shareholders. The power to alter, amend, or repeal the by-laws or adopt new by-laws, shall be vested in the board of directors unless reserved to the shareholders by the articles of incorporation, provided, however, that the board of directors may not alter, amend, or repeal any by-law establishing what constitutes a quorum at shareholders' meetings. The by-laws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

#### **Section 28. BY-LAWS AND OTHER POWERS IN EMERGENCY.**

The board of directors of any corporation may adopt emergency by-laws, subject to repeal or change by action of the shareholders, which shall, notwithstanding any different provision elsewhere in this Act or in the articles of incorporation or by-laws, be operative during any emergency in the conduct of the business of

the corporation resulting from an attack on the United States or any nuclear or atomic disaster, or during the existence of any catastrophe or other similar emergency condition, as a result of which a quorum of the board of directors or a standing committee thereof cannot readily be convened for action. The emergency by-laws may make any provision that may be practical and necessary for the circumstances of the emergency, including provisions that:

(a) A meeting of the board of directors may be called by any officer or director in such manner and under such conditions as shall be prescribed in the emergency by-laws;

(b) The director or directors in attendance at the meeting, or any greater number fixed by the emergency by-laws, shall constitute a quorum; and

(c) The officers or other persons designated on a list approved by the board of directors before the emergency, all in such order or priority and subject to such conditions, and for such period of time (not longer than reasonably necessary after the termination of the emergency) as may be provided in the emergency by-laws or in the resolution approving the list shall, to the extent required to provide a quorum at any meeting of the board of directors, be deemed directors for such meetings.

The board of directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that during such an emergency any or all officers or agents of the corporation shall for any reason be rendered incapable of discharging their duties.

The board of directors, either before or during any such emergency, may, effective in the emergency, change the head office or designate several alternative head offices or regional offices, or authorize the officers so to do.

To the extent not inconsistent with any emergency by-law so adopted, the by-laws of the corporation shall remain in effect during any such emergency and upon its termination the emergency by-laws shall cease to be operative.

Unless otherwise provided in emergency by-laws, notice of any meeting of the board of directors during any such emergency may be given only to such of the directors as it may be feasible to reach at the time and by such means as may be feasible at the time, including publication or radio.

To the extent required to constitute a quorum at any meeting of the board of directors during any such emergency, the officers of

the corporation who are present shall, unless otherwise provided in emergency by-laws, be deemed, in order of rank and within the same rank in order of seniority, directors for such meeting.

No officer, director or employee acting in accordance with any emergency by-law shall be liable except for wilful misconduct. No officer, director or employee shall be liable for any action taken by him in good faith in such an emergency in furtherance of the ordinary business affairs of the corporation even though not authorized by the by-laws then in effect.

## **Section 29. MEETINGS OF SHAREHOLDERS.**

Meetings of shareholders may be held at such place within or without this State as may be stated in or fixed in accordance with the by-laws. If no other place is stated or so fixed, meetings shall be held at the registered office of the corporation.

An annual meeting of the shareholders shall be held at such time as may be stated in or fixed in accordance with the by-laws. If the annual meeting is not held within any thirteen-month period the Circuit Court of the County in which the corporation has its registered office or any court in such place having jurisdiction may, on the application of any shareholder, summarily order a meeting to be held.

Special meetings of the shareholders may be called by the board of directors, the holders of not less than one-tenth of all the shares entitled to vote at the meeting, or such other persons as may be authorized in the articles of incorporation or the by-laws.

## **Section 30. NOTICE OF SHAREHOLDERS' MEETINGS.**

Written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the discretion of the president, the secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.

Notwithstanding the provisions of this section, the stock or bonded indebtedness of a corporation shall not be increased at a meeting unless notice of such meeting shall have been given as may be required by section 234 of the Constitution of Alabama as the

same may be amended from time to time.

### **Section 31. WAIVER OF NOTICE.**

Whenever any notice is required to be given to any shareholder or director of a corporation under the provisions of the Constitution of Alabama or this Act or under the provisions of the articles of incorporation or by-laws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

### **Section 32. CLOSING OF TRANSFER BOOKS AND FIXING RECORD DATE.**

For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, fifty days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days immediately preceding such meeting. In lieu of closing the stock transfer books, the by-laws, or in the absence of an applicable by-law the board of directors, may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than fifty days and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof except where the determination has been made through the closing of the stock transfer books and the stated period of closing has expired.

### **Section 33. VOTING RECORD.**

The officer or agent having charge of the stock transfer books

for shares of a corporation shall make, at least ten days before each meeting of shareholders, a complete list of the shareholders entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each, which list, for a period of ten days prior to such meeting, shall be kept on file at the principal office of the corporation and shall be subject to inspection by any shareholder making written request therefor at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting. The original stock transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such lists or transfer books or to vote at any meeting of shareholders.

Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting.

An officer or agent having charge of the stock transfer books who shall fail to prepare the list of shareholders, or keep it on file for a period of ten days, or produce and keep it open for inspection at the meeting as provided in this section shall be liable to any shareholder who made written demand for the inspection of said list and who suffered damages on account of such failure, to the extent of such damage.

#### **Section 34. QUORUM OF SHAREHOLDERS.**

Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders, but in no event shall a quorum consist of less than one-third of the shares entitled to vote at the meeting. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by the Constitution of Alabama as the same may be amended from time to time, this Act, the articles of incorporation, or by-laws.

#### **Section 35. VOTING OF SHARES.**

Each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except as may be otherwise provided in the articles of incorporation. If the articles of incorporation provide for more or less than one vote for any share, on any matter, every reference in this Act to a majority or other proportion of shares shall refer to

such a majority or other proportion of votes entitled to be cast.

Neither treasury shares, nor shares held by another corporation if a majority of the shares entitled to vote for the election of directors of such other corporation is held by the corporation, shall be voted at any meeting or counted in determining the total number of outstanding shares at any given time.

A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

At each election for directors every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or, if cumulative voting is authorized by the articles of incorporation, to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by the number of his shares shall equal, or by distributing such votes on the same principle among any number of such candidates.

Shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the by-laws of such other corporation may prescribe, or, in the absence of such provision, as the board of directors of such other corporation may determine.

Shares held by an administrator, executor, guardian, or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name and no corporate trustee shall be entitled to vote for the election of directors shares held by it solely in a fiduciary capacity if such shares are shares issued by the corporate trustee itself.

Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to



vote the shares so transferred.

On and after the date on which written notice of redemption of redeemable shares has been mailed to the holders thereof and a sum sufficient to redeem such shares has been deposited with a bank or trust company with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates therefor, such shares shall not be entitled to vote on any matter and shall not be deemed to be outstanding shares.

### **Section 36. GREATER VOTING REQUIREMENTS.**

Whenever, with respect to any action to be taken by the shareholders of a corporation, the articles of incorporation require the vote or concurrence of the holders of a greater proportion of the shares, or of any class or series thereof, than required by this Act with respect to such action, the provisions of the articles of incorporation shall control.

### **Section 37. VOTING TRUSTS AND AGREEMENTS AMONG SHAREHOLDERS.**

Any number of shareholders of a corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed ten years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the corporation at its registered office, and by transferring their shares to such trustee or trustees for the purposes of the agreement. Such trustee or trustees shall keep a record of the holders of voting trust certificates evidencing a beneficial interest in the voting trust, giving the names and addresses of all such holders and the number and class of the shares in respect of which the voting trust certificates held by each are issued, and shall deposit a copy of such record with the corporation at its registered office. Certificates of stock shall be issued to the voting trustee or trustees to represent any stock of an original issue so deposited with him or them, and any certificates of stock transferred to the voting trustee or trustees shall be surrendered and cancelled and new certificates therefor shall be issued to the voting trustee or trustees. In the certificate so issued it shall be stated that the certificate is issued pursuant to the voting trust agreement, and that fact shall also be stated in the stock ledger of the corporation. The counterpart of the voting trust agreement and the copy of the record of holders of voting trust certificates deposited with the corporation shall be subject to the same right of examination by a shareholder of the corporation, in person or by agent or attorney, as are the books and records of the

corporation, and such counterpart and such copy of such record shall be subject to examination by any holder of record of voting trust certificates, either in person or by agent or attorney, at any reasonable time for any proper purpose.

Agreements among shareholders regarding the voting of their shares shall be valid and enforceable in accordance with their terms. Such agreements shall not be subject to the provisions of this section regarding voting trusts.

### **Section 38. ACTION BY SHAREHOLDERS WITHOUT A MEETING.**

Any action required by this Act to be taken at a meeting of the shareholders of a corporation, or any action which may be taken at a meeting of the shareholders, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof.

Such consent shall have the same effect as a unanimous vote of shareholders, and may be stated as such in any articles or document filed with the Probate Judge under this Act.

### **Section 39. BUSINESS OF CORPORATION TO BE MANAGED BY BOARD OF DIRECTORS.**

All corporate powers shall be exercised by or under authority of, and the business and affairs of a corporation shall be managed under the direction of, a board of directors except as may be otherwise provided in this Act or the articles of incorporation. If any such provision is made in the articles of incorporation, the powers and duties conferred or imposed upon the board of directors by this Act shall be exercised or performed to such extent and by such person or persons as shall be provided in the articles of incorporation. Directors shall be natural persons but need not be residents of this State or shareholders of the corporation unless the articles of incorporation or by-laws so require. The articles of incorporation or by-laws may prescribe other qualifications for directors. The board of directors shall have authority to fix the compensation of directors unless otherwise provided in the articles of incorporation.

### **Section 40. NUMBER AND ELECTION OF DIRECTORS.**

The board of directors of a corporation shall consist of one or more members. The number of directors shall be fixed by, or in the manner provided in, the articles of incorporation or the by-laws, except as to the number constituting the initial board of directors,

which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or the by-laws, but no decrease shall have the effect of shortening the term of any incumbent director. In the absence of a by-law providing for the number of directors, the number shall be the same as that provided for in the articles of incorporation. The names and addresses of the members of the first board of directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual meeting of shareholders, and until their successors shall have been elected and qualified. At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in case of the classification of directors as permitted by this Act. Failure to elect directors at any time designated for their election shall not work a dissolution of the corporation, and each director shall hold office for the term for which he is elected and until his successor shall have been elected and qualified.

#### **Section 41. CLASSIFICATION OF DIRECTORS.**

When the board of directors shall consist of nine or more members, in lieu of electing the whole number of directors annually, the articles of incorporation or the by-laws may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two classes, or until the third succeeding annual meeting, if there be three classes. No classification of directors shall be effective prior to the first annual meeting of shareholders.

#### **Section 42. VACANCIES IN BOARD OF DIRECTORS.**

Vacancies occurring in the board of directors may, unless prohibited by the articles of incorporation or by-laws, be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected to serve until the next annual meeting of shareholders. Any directorship to be filled by reason of an increase in the number of directors shall be filled by election at an

annual meeting or at a special meeting of shareholders called for that purpose.

### **Section 43. REMOVAL OF DIRECTORS.**

At a meeting of shareholders called expressly for that purpose, directors may be removed in the manner provided in this section. Any director or the entire board of directors may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote at an election of directors, who may then forthwith at such meeting proceed to elect a successor or successors for the unexpired term.

In the case of a corporation having cumulative voting, if less than the entire board is to be removed, no one of the directors may be removed if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire board of directors, or if there be classes of directors, at an election of the class of directors of which he is a part.

Whenever the holders of the shares of any class are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of this section shall apply, in respect to the removal of a director or directors so elected, to the vote of the holders of the outstanding shares of that class and not to the vote of the outstanding shares as a whole.

### **Section 44. QUORUM OF DIRECTORS.**

A majority of the directors shall constitute a quorum for the transaction of business, unless the articles of incorporation or by-laws shall provide that a different number shall constitute a quorum. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by the articles of incorporation or the by-laws.

If a quorum is present when the meeting is convened, the directors present may continue to do business, taking action by a vote of a majority of a quorum as fixed above, until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum as fixed above, or the refusal of any director present to vote.

### **Section 45. DIRECTOR CONFLICTS OF INTEREST.**

No contract or other transaction between a corporation and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers or are financially interested, shall be either void or voidable

because of such relationship or interest or because such director or directors are present at the meeting of the board of directors or a committee thereof which authorizes, approves or ratifies such contract or transaction, if the contract or transaction is fair and reasonable to the corporation and if either:

(a) the fact of such relationship or interest is disclosed to the board of directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested directors; or

(b) the fact of such relationship or interest is disclosed to the shareholders entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent.

Common or interested directors may not be counted in determining the presence of a quorum at a meeting of the board of directors or a committee thereof which authorizes, approves, or ratifies such contract or transaction.

#### **Section 46. EXECUTIVE AND OTHER COMMITTEES.**

If the articles of incorporation or the by-laws so provide, the board of directors, by resolution adopted by a majority of the full board of directors, may designate from among its members one or more committees, each committee to consist of one or more of the directors and each of which committees, to the extent provided in such resolution or in the articles of incorporation or the by-laws of the corporation, shall have and may exercise all the authority of the board of directors, except that no such committee shall have the authority of the board of directors in reference to declaring a dividend or distribution from capital surplus, issuing capital stock, amending the articles of incorporation, adopting a plan of merger or consolidation, recommending to the shareholders the sale, lease, mortgage, exchange or other disposition of all or substantially all the property and assets of the corporation otherwise than in the usual and regular course of its business, recommending to the shareholders a voluntary dissolution of the corporation or a revocation thereof, filling vacancies in the board of directors, or amending the by-laws of the corporation. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any member thereof, of any responsibility imposed upon it or him by law.

#### **Section 47. PLACE AND NOTICE OF DIRECTORS' MEETINGS; COMMITTEE MEETINGS.**

Meetings of the board of directors, regular or special, may be

held either within or without this State.

Regular meetings of the board of directors or any committee designated thereby may be held with or without notice as prescribed in the by-laws. Special meetings of the board of directors or any committee designated thereby shall be held upon such notice as is prescribed in the by-laws. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or any committee designated thereby need be specified in the notice or waiver of notice of such meeting unless required by the by-laws.

Except as may be otherwise restricted by the articles of incorporation or by-laws, members of the board of directors or any committee designated thereby may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

#### **Section 48. ACTION BY DIRECTORS WITHOUT A MEETING.**

Unless otherwise provided by the articles of incorporation or by-laws, any action required by this Act to be taken at a meeting of the directors of a corporation, or any action which may be taken at a meeting of the directors or of a committee, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, or all of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

#### **Section 49. DIVIDENDS.**

The board of directors of a corporation may, from time to time, declare and the corporation may pay dividends on its outstanding shares in cash, property, or its own shares, except when the corporation is insolvent or when the payment thereof would render the corporation insolvent or when the declaration or payment thereof would be contrary to any restriction contained in the articles of incorporation, subject to the following provisions:

(a) Dividends may be declared and paid in cash or property only out of the unreserved and unrestricted earned surplus of the

corporation, except as otherwise provided in this section.

(b) If the articles of incorporation of a corporation engaged in the business of exploiting natural resources so provide, dividends may be declared and paid in cash out of the depletion reserves, but each such dividend shall be identified as a distribution of such reserves and the amount per share paid from such reserves shall be disclosed to the shareholders receiving the same concurrently with the distribution thereof.

(c) Dividends may be declared and paid in its own treasury shares.

(d) Dividends may be declared and paid in its own authorized but unissued shares out of any unreserved and unrestricted surplus of the corporation upon the following conditions:

(1) If a dividend is payable in its own shares having a par value, such shares shall be issued at not less than the par value thereof and there shall be transferred to stated capital at the time such dividend is paid an amount of surplus equal to the aggregate par value of the shares to be issued as a dividend.

(2) If a dividend is payable in its own shares without par value, such shares shall be issued at such stated value as shall be fixed by the board of directors by resolution adopted at the time such dividend is declared, and there shall be transferred to stated capital at the time such dividend is paid an amount of surplus equal to the aggregate value so fixed in respect of such shares; and the amount per share so transferred to stated capital shall be disclosed to the shareholders receiving such dividend concurrently with the payment thereof.

(e) No dividend payable in shares of any class shall be paid to the holders of shares of any other class unless the articles of incorporation so provide or such payment is authorized by the affirmative vote or the written consent of the holders of at least a majority of the outstanding shares of the class in which the payment is to be made.

A split-up or division of the issued shares of any class into a greater number of shares of the same class without increasing the stated capital of the corporation shall not be construed to be a share dividend within the meaning of this section.

## **Section 50. DISTRIBUTIONS FROM CAPITAL SURPLUS.**

The board of directors of a corporation may, from time to time, distribute to its shareholders out of capital surplus of the

corporation a portion of its assets, in cash or property, subject to the following provisions:

(a) No such distribution shall be made at a time when the corporation is insolvent or when such distribution would render the corporation insolvent.

(b) No such distribution shall be made unless the articles of incorporation so provide or such distribution is authorized by the affirmative vote of the holders of a majority of the outstanding shares of each class whether or not entitled to vote thereon by the provisions of the articles of incorporation of the corporation.

(c) No such distribution shall be made to the holders of any class of shares unless all cumulative dividends accrued on all preferred or special classes of shares entitled to preferential dividends shall have been fully paid.

(d) No such distribution shall be made to the holders of any class of shares which would reduce the remaining net assets of the corporation below the aggregate preferential amount payable in event of involuntary liquidation to the holders of shares having preferential rights to the assets of the corporation in the event of liquidation.

(e) Each such distribution, when made, shall be identified as a distribution from capital surplus and the amount per share disclosed to the shareholders receiving the same concurrently with the distribution thereof.

The board of directors of a corporation may also, from time to time, distribute to the holders of its outstanding shares having a cumulative preferential right to receive dividends, in discharge of their cumulative dividend rights, dividends payable in cash out of the capital surplus of the corporation, if at the time the corporation has no earned surplus and is not insolvent and would not thereby be rendered insolvent. Each such distribution when made, shall be identified as a payment of cumulative dividends out of capital surplus.

#### **Section 51. LOANS TO EMPLOYEES AND DIRECTORS.**

A corporation shall not lend money to or use its credit to assist its directors without authorization in the particular case by its shareholders, but may lend money to and use its credit to assist any employee of the corporation or of a subsidiary, including any such employee who is a director of the corporation, if the board of directors decides that such loan or assistance may benefit the corporation provided, however, that nothing in this section shall



prohibit a bank, trust company or other corporation regularly engaged in the business of lending money from lending money to its directors without the necessity for shareholder authorization, so long as such loans are made in compliance with the laws and regulations applicable to banks, trust companies and other lending institutions with respect to loans to directors.

**Section 53. DEPRECIATING STOCKS OR BONDS OF CORPORATION WITH INTENT TO BUY.**

No president, director, or managing officer of any corporation, by whatsoever name or title he may be known or called, shall do or omit to do any act, or shall make any declaration or statement in writing, or otherwise, with the intent to depreciate the market value of the stock or bonds of such corporation, and with the further intent to enable such president, director, or other managing officer, or any other person, to buy any such stock or bonds at less than the real value thereof.

**Section 54. DISSENT OF DIRECTOR TO ACTION OF BOARD.**

A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered or certified mail or personal delivery to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

**Section 55. DIRECTOR RELYING UPON CERTAIN REPORTS AND RECORDS PROTECTED.**

In performing his duties, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(a) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented,

(b) counsel, public accountants or other persons as to matters which the director reasonably believes to be within such person's professional or expert competence, or

(c) a committee of the board upon which he does not serve,

duly designated in accordance with a provision of the articles of incorporation or the by-laws, as to matters within its designated authority, which committee the director reasonably believes to merit confidence, but he shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause such reliance to be unwarranted.

A person who so performs his duties shall have no liability by reason of being or having been a director of the corporation.

#### **Section 56. DUTY OF DIRECTORS GENERALLY.**

A director shall perform his duties as a director, including his duties as a member of any committee of the board upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interests of the corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.

#### **Section 57. LIABILITY OF DIRECTORS IN CERTAIN CASES.**

In addition to any other liabilities, a director shall be liable in the following circumstances unless he complies with the standard provided in this Act for the performance of the duties of directors.

(a) A director who votes for or assents to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this Act or contrary to any restrictions contained in the articles of incorporation, shall be liable to the corporation, jointly and severally with all other directors so voting or assenting, for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions of this Act or the restrictions in the articles of incorporation.

(b) A director who votes for or assents to the purchase of the corporation's own shares contrary to the provisions of this Act shall be liable to the corporation, jointly and severally with all other directors so voting or assenting, for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefor without a violation of the provisions of this Act.

(c) A director who votes for or assents to any distribution of assets of a corporation to its shareholders during the liquidation of the corporation without the payment and discharge of, or making adequate provision for, all known debts, obligations, and liabilities

of the corporation shall be liable to the corporation, jointly and severally with all other directors so voting or assenting, for the value of such assets which are distributed, to the extent that such debts, obligations and liabilities of the corporation are not thereafter paid and discharged.

Any director against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a corporation and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of this Act, in proportion to the amounts received by them.

Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted.

#### **Section 58. FIDUCIARY OBLIGATIONS NOT IMPAIRED.**

Neither an unqualified statement of rights or powers, nor an unqualified grant of authority herein, shall be taken or construed, to abrogate, repeal, displace, modify, or impair the fiduciary obligations of directors or other officers or employees of any corporation, or of stockholders having or exercising control thereof, or of any function thereof, whether by reason of ownership of a majority, or other controlling, interest therein, or otherwise, or the jurisdiction of the courts to grant relief by way of injunction or otherwise, in order to forestall, prevent, correct, remedy, or allow damages for fraud, oppression, imposition, or other inequitable or remedial conduct in conformity with the applicable principles and practices of law.

#### **Section 60. OFFICERS.**

The officers of a corporation shall consist of a president and a secretary each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the by-laws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the by-laws. Any number of offices may be held by the same person unless the by-laws provide otherwise.

All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may

be provided in the by-laws, or as may be determined by resolution of the board of directors not inconsistent with the by-laws.

### **Section 61. REMOVAL OF OFFICERS.**

Any officer or agent may be removed by the board of directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

### **Section 62. BOOKS AND RECORDS AND FINANCIAL REPORTS TO SHAREHOLDERS.**

Each corporation, and each foreign corporation which has its principal place of business within this State, shall keep at a location within this State correct and complete books and records of account and correct and complete records of all transactions of the corporation and also shall keep complete and correct minutes of the proceedings of its shareholders and board of directors and committees of the board of directors and shall keep at its registered office or principal place of business or at the office of its transfer agent or registrar a record of its shareholders, giving the names and addresses of all shareholders and the number and class of the shares held by each. Financial or accounting records may be kept in written form or in any other form capable of being converted to written form within a reasonable time.

Any person who for six months immediately preceding his demand shall have been a holder of record of shares or of voting trust certificates therefor or who is the holder of record of, or the holder of record of voting trust certificates for, at least five per cent (5%) of the outstanding shares of any class of shares of a corporation, upon written demand stating the purpose therefor, shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, all of its books, papers, records of account, minutes, and record of shareholders and holders of voting trust certificates and to make copies thereof or extracts therefrom. Provided, however, if a corporation is engaged in the business of banking, its books and records of account and minutes relating to the private financial affairs of borrowers and depositors who are neither officers, directors, or employees of the bank nor who are related to or engaged in business with an officer, director, or employee shall not be subject to examination by such a stockholder or by his agent or attorney in the absence of an order of a court of competent jurisdiction, after inspection of such books and records of account and minutes in camera, that such examination is necessary; and said order shall be subject to review in the Supreme

Court of Alabama on writ of mandamus. Provided further that if a corporation is engaged in the business of banking, its said books and records of account and minutes shall be deemed not to include any reports of examination by state or federal supervisory agencies nor any actions taken nor reports made by the corporation to bank supervisory authorities pursuant thereto.

Any officer or agent who, or a corporation which, without reasonable cause, shall refuse to allow any such shareholder or holder of voting trust certificates, or his agent or attorney so to examine and make copies of and extracts from its books, papers, records of account, minutes, and record of shareholders and holders of voting trust certificates, for any proper purpose, shall be liable to such shareholder or holder of voting trust certificates for a penalty of an amount not to exceed ten per cent (10%) of the value of the shares owned by such shareholder, or in respect of which such voting trust certificates are issued, in addition to any other damages or remedy afforded him by law. It shall be a defense to an action brought to collect the penalty specified in this section that the person suing therefor within the two years next preceding the demand has sold or offered for sale any list of shareholders or of holders of voting trust certificates for shares of such corporation, or any other corporation or knowingly has aided or abetted any person in procuring any list of shareholders or of holders of voting trust certificates for such purpose, or improperly has used any information secured through any prior examination of the books, papers, records of account, minutes, or record of shareholders or of holders of voting trust certificates for shares of such corporation, or was not acting in good faith or for a proper purpose in making this demand.

Nothing herein contained shall impair or restrict the power of any court of competent jurisdiction, upon proof by a shareholder or holder of voting trust certificates of a proper purpose, irrespective of the period of time during which such shareholder or holder of voting trust certificates shall have been a shareholder of record or a holder of record of voting trust certificates, and irrespective of the number of shares held by him or represented by voting trust certificates held by him, to compel the production for examination by such shareholder or holder of voting trust certificates, or his agent or attorney, of the books, papers, records of account, minutes, and record of shareholders and holders of voting trust certificates of a corporation.

The board of directors shall cause the corporation to mail to each of its shareholders and holders of voting trust certificates, not later than one hundred and twenty (120) days after the close of each

of its fiscal years, a financial statement, which may be consolidated, including a balance sheet as of the end of such fiscal year and a statement of income, (expenses and retained earnings) for such fiscal year (or from the inception of the corporation's business, if a shorter period). Such financial statement shall be prepared in accordance with generally accepted accounting principles, or, if the books of the corporation are not maintained on that basis, may be prepared either on the same basis used by the corporation for filing its United States income tax returns or as required by appropriate regulatory agencies. The financial statement shall be accompanied by a report of the president, the officer of the corporation in charge of its financial records, or a certified public accountant stating whether, in his opinion, the financial statements of the corporation present fairly the financial position of the corporation and the results of its operations in accordance with generally accepted accounting principles and, if not, describing the basis of their preparation and giving his opinion of the fairness of the presentation of the data shown by them, in accordance with accounting procedures generally used in the trade, industry, or business conducted by the corporation.

### **Section 63. INCORPORATORS.**

One or more persons, partnerships, domestic corporations, or foreign corporations may act as incorporator or incorporators of a corporation by signing the articles of incorporation and delivering the same to the Probate Judge of the county in which the corporation is to have its initial registered office.

### **Section 64. ARTICLES OF INCORPORATION.**

The articles of incorporation shall set forth:

- (a) The name of the corporation.
- (b) The period of duration, which may be perpetual.
- (c) The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this Act.
- (d) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value.

(e) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class.

(f) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series.

(g) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision restricting the transfer of shares and any provision which under this Act is required or permitted to be set forth in the by-laws.

(h) The location and mailing address of its initial registered office, and the name of its initial registered agent at such address.

(i) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify.

(j) The name and address of each incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Act.

## **Section 65. FILING OF ARTICLES OF INCORPORATION.**

The articles of incorporation and two copies thereof shall be delivered to the Probate Judge. If the Probate Judge finds that the articles of incorporation conform to law, and that the name of the proposed corporation is then reserved under section 8, he shall, when all fees prescribed in this Act have been paid:

(a) Endorse on the articles of incorporation and on each of such copies the word "Filed", and the hour, day, month and year of the filing thereof.

(b) File the articles of incorporation in his office and certify the two copies thereof.

(c) Issue a certificate of incorporation to which he shall affix one certified copy of the articles of incorporation, and return such certificate of incorporation with the certified copy of the articles of

incorporation affixed thereto to the incorporators or their representative.

(d) Within ten days after the issuance of the certificate of incorporation transmit to the Secretary of State a copy of the certificate of incorporation with a certified copy of the articles of incorporation attached thereto, indicating thereon the place, date and time of filing of the articles of incorporation.

For failure of the Probate Judge to comply with the required in paragraph (d) of this section, the Probate Judge shall forfeit \$50.00 to the state, to be recovered in an action by the state.

#### **Section 66. EFFECT OF FILING OF ARTICLES OF INCORPORATION AND ISSUANCE OF CERTIFICATE OF INCORPORATION.**

Upon the filing of the articles of incorporation with the Probate Judge, the corporate existence shall begin. The certificate of incorporation issued by the Probate Judge shall be conclusive evidence that the corporation has been incorporated under this Act, except as against this State in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

#### **Section 67. CORRECTION OF ERRORS OR OMISSIONS.**

If any corporation has an error or omission in the corporation's:

(a) articles of incorporation, or

(b) any other instrument filed, which corrects, amends, alters or supplements the articles of incorporation, through accident or inadvertence, whether clerical or otherwise, the chairman of the board, president or vice president of the corporation may supply or correct such omission or defect by filing in the office of the Probate Judge articles of correction, which shall consist of a statement in writing and under oath setting forth the omission or error and supplying or correcting the same.

If the Probate Judge finds that such statement conforms to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the statement the word "Filed", and the hour, day, month and year of the filing thereof.

(2) File the statement in his office.

Upon the filing of such statement with the Probate Judge, the statement shall relate back to the date of the filing of the instrument to which the correction relates, except as to the rights of third



persons which have intervened.

## **Section 68. ORGANIZATION MEETING OF DIRECTORS.**

After the filing of the articles of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this State, at the call of a majority of the directors named in the articles of incorporation, for the purpose of electing officers and transacting such other business as may come before the meeting.

## **Section 69. RIGHT TO AMEND ARTICLES OF INCORPORATION.**

A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification or cancellation of shares or rights of shareholders is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation.

In particular, and without limitation upon such general power of amendment, a corporation may amend its articles of incorporation, from time to time, so as:

- (a) To change its corporate name.
- (b) To change its period of duration.
- (c) To change, enlarge or diminish its corporate purposes.
- (d) To increase or decrease the aggregate number of shares, or shares of any class, which the corporation has authority to issue.
- (e) To increase or decrease the par value of the authorized shares of any class having a par value, whether issued or unissued.
- (f) To exchange, classify, reclassify or cancel all or any part of its shares, whether issued or unissued.
- (g) To change the designation of all or any part of its shares, whether issued or unissued, and to change the preferences, limitations, and the relative rights in respect of all or any part of its shares, whether issued or unissued.
- (h) To change shares having a par value, whether issued or unissued, into the same or a different number of shares without par value, and to change shares without par value, whether issued or

unissued, into the same or a different number of shares having a par value.

(i) To change the shares of any class, whether issued or unissued, and whether with or without par value, into a different number of shares of the same class or into the same or a different number of shares, either with or without par value, of other classes.

(j) To create new classes of shares having rights and preferences either prior and superior or subordinate and inferior to the shares of any class then authorized, whether issued or unissued.

(k) To cancel or otherwise affect the right of the holders of the shares of any class to receive dividends which have accrued but have not been declared.

(l) To divide any preferred or special class of shares, whether issued or unissued, into series and fix and determine the designations of such series and the variations in the relative rights and preferences as between the shares of such series.

(m) To authorize the board of directors to establish, out of authorized but unissued shares, series of any preferred or special class of shares and fix and determine the relative rights and preferences of the shares of any series so established.

(n) To authorize the board of directors to fix and determine the relative rights and preferences of the authorized but unissued shares of series theretofore established in respect of which either the relative rights and preferences have not been fixed and determined or the relative rights and preferences theretofore fixed and determined are to be changed.

(o) To revoke, diminish, or enlarge the authority of the board of directors to establish series out of authorized but unissued shares of any preferred or special class and fix and determine the relative rights and preferences of the shares of any series so established.

(p) To limit, deny or grant to shareholders of any class the preemptive right to acquire additional or treasury shares of the corporation, whether then or thereafter authorized.

## **Section 70. PROCEDURE TO AMEND ARTICLES OF INCORPORATION.**

Amendments to the articles of incorporation shall be made in the following manner:

(a) The board of directors shall adopt a resolution setting forth the proposed amendment and, if shares have been issued, directing that it be submitted to a vote at a meeting of shareholders,

which may be either the annual or a special meeting. If no shares have been issued, the amendment shall be adopted by resolution of the board of directors and the provisions for adoption by shareholders shall not apply. The resolution may incorporate the proposed amendment in restated articles of incorporation which contain a statement that except for the designated amendment the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation together with the designated amendment supersede the original articles of incorporation and all amendments thereto.

(b) Written notice setting forth the proposed amendment or a summary of the changes to be affected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this Act for the giving of notice of meetings of shareholders. If the meeting be an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote thereon, unless a greater than majority vote is required by the articles of incorporation or the Constitution of Alabama as the same may be amended from time to time or unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the requisite affirmative vote of the holders of the shares of each class of shares entitled to vote thereon.

Any number of amendments may be submitted to the shareholders, and voted upon by them, at one meeting.

#### **Section 71. CLASS VOTING ON AMENDMENTS.**

The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the amendment would:

(a) Increase or decrease the aggregate number of authorized shares of such class.

(b) Increase or decrease the par value of the shares of such class.

(c) Effect an exchange, reclassification or cancellation of all or part of the shares of such class.

(d) Effect an exchange, or create a right of exchange, of all or any part of the shares of another class into the shares of such class.

(e) Change the designations, preferences, limitations or relative rights of the shares of such class.

(f) Change the shares of such class, whether with or without par value, into the same or a different number of shares, either with or without par value, of the same class or another class or classes.

(g) Create a new class of shares having rights and preferences prior and superior to the shares of such class, or increase the rights and preferences or the number of authorized shares, of any class having rights and preferences prior or superior to the shares of such class.

(h) In the case of a preferred or special class of shares, divide the shares of such class into series and fix and determine the designation of such series and the variations in the relative rights and preferences between the shares of such series, or authorize the board of directors to do so.

(i) Limit or deny any existing preemptive rights of the shares of such class.

(j) Cancel or otherwise affect dividends on the shares of such class which have accrued but have not been declared.

## **Section 72. ARTICLES OF AMENDMENT.**

The articles of amendment shall be executed for the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such articles, and shall set forth:

(a) The name of the corporation.

(b) The amendments so adopted.

(c) The date of the adoption of the amendment by the shareholders, or by the board of directors where no shares have been issued.

(d) The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.

(e) The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively, or if no shares have been issued, a statement to that effect.

(f) If such amendment provides for an exchange,

reclassification or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected.

(g) If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by such amendment.

### **Section 73. FILING OF ARTICLES OF AMENDMENT.**

The articles of amendment and a copy thereof shall be delivered to the Probate Judge. If the Probate Judge finds that the articles of amendment conform to law, and, if the articles of amendment change the name of the corporation, he also finds that the proposed name is then reserved under section 8, he shall, when all fees prescribed in this Act have been paid:

(a) Endorse on the articles of amendment and on the copy thereof the word "Filed", and the hour, day, month and year of the filing thereof.

(b) File the articles of amendment in his office and certify the copy thereof.

(c) Issue a certificate of amendment to which he shall affix the certified copy of the articles of amendment, and return such certificate of amendment with the certified copy of the articles of amendment affixed thereto to the corporation or its representative.

### **Section 74. EFFECT OF CERTIFICATE OF AMENDMENT.**

Upon the issuance of the certificate of amendment, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or the existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

### **Section 75. RESTATED ARTICLES OF INCORPORATION.**

A domestic corporation may at any time restate its articles of incorporation as theretofore amended, by a resolution adopted by the board of directors.

Upon the adoption of such resolution, restated articles of incorporation shall be executed for the corporation by its president or a vice president and by its secretary or assistant secretary and verified by one of the officers signing such articles and shall set forth all of the operative provisions of the articles of incorporation as theretofore amended together with a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

The restated articles of incorporation and a copy thereof shall be delivered to the Probate Judge. If the Probate Judge finds that such restated articles of incorporation conform to law, he shall, when all fees prescribed in this Act have been paid;

(1) Endorse on the restated articles of incorporation and on the copy thereof the word "Filed", and the hour, day, month and year of filing thereof.

(2) File the restated articles of incorporation in his office and certify the copy thereof.

(3) Issue a restated certificate of incorporation, to which he shall affix the certified copy of the restated articles of incorporation and return such restated certificate of incorporation with the certified copy of the restated articles of incorporation affixed thereto to the corporation or its representative.

Upon the issuance of the restated certificate of incorporation, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

## **Section 76. AMENDMENT OF ARTICLES OF INCORPORATION IN REORGANIZATION PROCEEDINGS.**

Whenever a plan of reorganization of a corporation has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided in this section, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

In particular and without limitation upon such general power of amendment, the articles of incorporation may be amended for such purpose so as to :

(A) Change the corporate name, period of duration or corporate purposes of the corporation;

(B) Repeal, alter or amend the by-laws of the corporation;

(C) Change the aggregate number of share or shares of any class, which the corporation has authority to issue;

(D) Change the preferences, limitations and relative rights in respect of all or any part of the shares of the corporation and classify, reclassify or cancel all or any part thereof, whether issued or unissued;

(E) Authorize the issuance of bonds, debentures or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof; and

(F) Constitute or reconstitute and classify or reclassify the board of directors of the corporation, and appoint directors and officers in place of or in addition to all or any of the directors or officers then in office.

Amendments to the articles of incorporation pursuant to this section shall be made in the following manner:

(a) Articles of amendment approved by decree or order of such court shall be executed and verified by such person or persons as the court shall designate or appoint for the purpose, and shall set forth the name of the corporation, the amendments of the article of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered, and a statement that such decree or order was entered by a court having jurisdiction of the proceedings for the reorganization of the corporation pursuant to the provisions of an applicable statute of the United States.

(b) The articles of amendment and a copy thereof shall be delivered to the Probate Judge. If the Probate Judge finds that the articles of amendment conform to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the articles of amendment and on the copy thereof the word "Filed", and the hour, day, month and year of the filing thereof.

(2) File the articles of amendment in his office and certify the copy thereof.

(3) Issue a certificate of amendment to which he shall affix the certified copy of the articles of amendment, and return such certificate of amendment with the certified copy of the articles of amendment affixed thereto to the corporation or its representative.

Upon the issuance of the certificate of amendment, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly, without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation.

#### **Section 77. RESTRICTION ON REDEMPTION OR PURCHASE OF REDEEMABLE SHARES.**

No redemption or purchase of redeemable shares shall be made by a corporation when it is insolvent or when such redemption or purchase would render it insolvent, or which would reduce the net assets below the aggregate amount payable to the holders of shares having prior or equal rights to the assets of the corporation upon involuntary dissolution.

#### **Section 78. CANCELLATION OF REDEEMABLE SHARES BY REDEMPTION OR PURCHASE.**

When redeemable shares of a corporation are redeemed or purchased by the corporation, the redemption or purchase shall effect a cancellation of such shares, and a statement of cancellation shall be filed as provided in this section. Thereupon such shares shall be restored to the status of authorized but unissued shares, unless the articles of incorporation provide that such shares when redeemed or purchased shall not be reissued, in which case the filing of the statement of cancellation shall constitute an amendment to the articles of incorporation and shall reduce the number of shares of the class so cancelled which the corporation is authorized to issue by the number of shares so cancelled.

The statement of cancellation shall be executed for the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

(a) The name of the corporation.

(b) The number of redeemable shares cancelled through redemption or purchase, itemized by classes and series.



(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

(e) If the articles of incorporation provide that the cancelled shares shall not be reissued, the number of shares which the corporation will have authority to issue itemized by classes and series, after giving effect to such cancellation.

Such statement of cancellation shall be delivered to the Probate Judge. If the Probate Judge finds that such statement of cancellation conforms to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on such statement the word "Filed", and the hour, day, month and year of the filing thereof.

(2) File the statement of cancellation in his office.

Upon the filing of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so cancelled.

Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this Act.

## **Section 79. CANCELLATION OF OTHER REACQUIRED SHARES.**

A corporation may at any time, by resolution of its board of directors, cancel all or any part of the shares of the corporation of any class reacquired by it, other than redeemable shares redeemed or purchased, and in such event a statement of cancellation shall be filed as provided in this section.

The statement of cancellation shall be executed for the corporation by its president and a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

(a) The name of the corporation.

(b) The number of reacquired shares cancelled by resolution duly adopted by the board of directors, itemized by classes and series, and the date of its adoption.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

Such statement of cancellation shall be delivered to the Probate Judge. If the Probate Judge finds that such statement of cancellation conforms to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on such statement of cancellation the word "Filed", and the hour, day, month and year of the filing thereof.

(2) File the statement of cancellation in his office.

Upon the filing of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so cancelled, and the shares so cancelled shall be restored to the status of authorized but unissued shares.

Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this Act.

#### **Section 80. REDUCTION OF STATED CAPITAL IN CERTAIN CASES.**

A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring an amendment of the articles of incorporation and not accompanied by a cancellation of shares, may be made in the following manner:

(A) The board of directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(B) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the board of directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this Act for the giving of notice of meetings of shareholders.

(C) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the question of approving the proposed reduction of stated capital, which shall require for its adoption the affirmative vote of the holders of a majority of the shares entitled to vote thereon.

When a reduction of the stated capital of a corporation has been approved as provided in this section, a statement shall be executed for the corporation by its president, or a vice president, and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

- (a) The name of the corporation.
- (b) A copy of the resolution of the shareholders approving such reduction, and the date of its adoption.
- (c) The number of shares outstanding, and the number of shares entitled to vote thereon.
- (d) The number of shares voted for and against such reduction, respectively.
- (e) A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction.

Such statement shall be delivered to the Probate Judge. If the Probate Judge finds that such statement conforms to law, he shall, when all fees prescribed in this Act have been paid:

- (1) Endorse on such statement the word "Filed", and the hour, day, month and year of the filing thereof.
- (2) File the statement in his office.

Upon the filing of such statement, the stated capital of the corporation shall be reduced as therein set forth.

No reduction of stated capital shall be made under the provisions of this section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation, plus the aggregate par value of all issued shares having a par value but no preferential right in the assets of the corporation in the event of involuntary liquidation.

## **Section 81. SPECIAL PROVISIONS RELATING TO SURPLUS AND RESERVES.**

The surplus, if any, created by or arising out of a reduction of the stated capital of a corporation shall be capital surplus.

The capital surplus of a corporation may be increased from time to time by resolution of the board of directors directing that all

or a part of the earned surplus of the corporation be transferred to capital surplus.

A corporation may, by resolution of its board of directors, apply any part or all of its capital surplus to the reduction or elimination of any deficit arising from losses, however incurred, but only after first eliminating the earned surplus, if any, of the corporation by applying such losses against earned surplus and only to the extent that such losses exceed the earned surplus, if any. Each such application of capital surplus shall, to the extent thereof, effect a reduction of capital surplus.

A corporation may, by resolution of its board of directors, create a reserve or reserves out of its earned surplus for any proper purpose or purposes, and may abolish any such reserve in the same manner. Earned surplus of the corporation to the extent so reserved shall not be available for the payment of dividends or other distributions by the corporation except as expressly permitted by this Act.

### **Section 82. PROCEDURE FOR MERGER.**

Subject to the limitations of the Constitution of Alabama as the same may be amended from time to time, any two or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this Act.

The board of directors of each corporation shall, by resolution adopted by each such board, approve a plan of merger setting forth:

(a) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

(b) The terms and conditions of the proposed merger.

(c) The manner and basis of converting the shares of each corporation into shares, obligations or other securities of the surviving corporation or of any other corporation or, in whole or in part, into cash or other property.

(d) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

(e) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

### **Section 83. PROCEDURE FOR CONSOLIDATION.**

Subject to the limitations of the Constitution of Alabama as the same may be amended from time to time, any two or more domestic

corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this Act.

The board of directors of each corporation shall, by a resolution adopted by each such board, approve a plan of consolidation setting forth:

(a) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

(b) The terms and conditions of the proposed consolidation.

(c) The manner and basis of converting the shares of each corporation into shares, obligations or other securities of the new corporation or of any other corporation or, in whole or in part, into cash or other property.

(d) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this Act.

(e) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

#### **Section 84. APPROVAL BY SHAREHOLDERS.**

The board of directors of each corporation, upon approving such plan of merger or plan of consolidation, shall, by resolution, direct that the plan be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting. Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than twenty days before such meeting, in the manner provided in this Act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose or one of the purposes is to consider the proposed plan of merger or consolidation. A copy or a summary of the plan of merger or plan of consolidation, as the case may be, shall be included in or enclosed with such notice.

At each such meeting, a vote of the shareholders shall be taken on the proposed plan of merger or consolidation. The plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon of each such corporation, unless any class of shares of any such corporation is entitled to vote thereon as a class, in which event, as to such corporation, the plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of two-

thirds of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon. Any class of shares of any such corporation shall be entitled to vote as a class if the plan of merger or consolidation, as the case may be, contains any provisions which, if contained in a proposed amendment to articles of incorporation, would entitle such class of shares to vote as a class.

After such approval by a vote of the shareholders of each corporation, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

#### **Section 85. ARTICLES OF MERGER OR CONSOLIDATION.**

Upon such approval, articles of merger or articles of consolidation shall be executed for each corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers of each corporation signing such articles, and shall set forth:

- (a) The plan of merger or the plan of consolidation.
- (b) As to each corporation whose shareholders were required to vote thereon, the number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.
- (c) As to each corporation whose shareholders were required to vote thereon, the number of shares voted for and against such plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against such plan, respectively.
- (d) As to each corporation incorporated under the law of this state, the counties in which their articles of incorporation are filed, or, in the case of corporations existing on the effective date of this Act, the counties in which their certificates of incorporation are filed.

The articles of merger or articles of consolidation, two copies thereof and such additional number of copies as may be required for purposes of this section, shall be delivered to the Secretary of State. If the Secretary of State finds that such articles conform to law, he shall, when all fees prescribed in this Act have been paid:

- (1) Endorse on the articles and on each of such copies the word "Filed", and the hour, day, month and year of the filing thereof.

(2) File the articles in his office and certify the copies thereof.

(3) Issue a certificate of merger or a certificate of consolidation to which he shall affix one certified copy of the articles, and return such certificate of merger or certificate of consolidation together with the certified copy of the articles affixed thereto to the surviving or new corporation, as the case may be, or its representative.

(4) Promptly transmit a certified copy of the articles of merger or articles of consolidation together with a copy of the certificate of merger or certificate of consolidation to the Probate Judge of the county in which each of the corporations' articles of incorporation are filed or, in the case of corporations existing on the effective date of this Act, the corporations' certificate of incorporation was filed, there to be recorded in a book to be kept for that purpose.

The certificate of merger or certificate of consolidation, together with a copy of the articles certified and affixed thereto by the Secretary of State, shall be returned to the surviving or new corporation, as the case may be, or its representative.

#### **Section 86. MERGER OF SUBSIDIARY CORPORATION.**

Subject to the limitations of the Constitution of Alabama as the same may be amended from time to time, any corporation owning at least eighty per cent of the outstanding shares of each class of another corporation may merge such other corporation into itself without approval by a vote of the shareholders of either corporation. Its board of directors shall, by resolution, approve a plan of merger setting forth:

(A) The name of the subsidiary corporation and the name of the corporation owning at least eighty per cent of its shares, which is hereinafter designated as the surviving corporation.

(B) The manner and basis of converting the shares of the subsidiary corporation into shares, obligations or other securities of the surviving corporation or of any other corporation or, in whole or in part, into cash or other property.

A copy of such plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.

Articles of merger shall be executed for the surviving corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of its officers signing such articles, and shall set forth:

- (a) The plan of merger;
- (b) The number of outstanding shares of each class of the subsidiary corporation and the number of such shares of each class owned by the surviving corporation; and
- (c) The date of the mailing to shareholders of the subsidiary corporation of a copy of the plan of merger.
- (d) As to each corporation incorporated under the law of this state, the counties in which their articles of incorporation are filed or, in the case of corporations existing on the effective date of this Act, the counties in which their certificates of incorporation are filed.

On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation, or upon the waiver thereof by the holders of all outstanding shares, the articles of merger, two copies thereof and such additional number of copies as may be required for purposes of this section, shall be delivered to the Secretary of State. If the Secretary of State finds that such articles conform to the law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the articles and on each of such copies the word "Filed", and the hour, day, month and year of filing thereof.

(2) File the articles of merger in his office and certify the copies thereof.

(3) Issue a certificate of merger to which he shall affix one of the certified copies of the articles of merger and return such certificate of merger with the certified articles of merger affixed thereto to the surviving corporation or its representative.

(4) Promptly transmit a certified copy of the articles of merger together with a certificate of merger to the Office of the Probate Judge of the counties in which each of the corporations' articles of incorporation are filed or, in the case of corporations existing on the effective date of this Act, the corporations' certificate of incorporation was filed, there to be recorded in a book to be kept for that purpose.

## **Section 87. EFFECT OF MERGER OR CONSOLIDATION.**

Upon the issuance of the certificate of merger or the certificate of consolidation by the Secretary of State, the merger or consolidation shall be effected.

When such merger or consolidation has been effected:



(a) The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(b) The existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(c) Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under this Act.

(d) Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, of a public as well as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(e) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(f) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this Act shall be deemed to be the original articles of incorporation of the new corporation.

## Section 88. MERGER OR CONSOLIDATION OF

## DOMESTIC AND FOREIGN CORPORATIONS.

Subject to the limitations of the Constitution of Alabama as the same may be amended from time to time, one or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(a) Each domestic corporation shall comply with the provisions of this Act with respect to the merger or consolidation, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(b) If the surviving or new corporation, as the case may be, in a merger or consolidation, is to be governed by the laws of any state other than this State, it shall comply, to the extent that it is not then in compliance therewith, with the provisions of this Act with respect to foreign corporations if it is to transact business in this State, and in every case it shall file with the Secretary of State of this State:

(1) An agreement that it may be served with process in this State in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

(2) An irrevocable appointment of the Secretary of State of this State as its agent to accept service of process in any such proceedings; and

(3) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this Act with respect to the rights of dissenting shareholders.

The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this State. If the surviving or new corporation is to be governed by the laws of any other state than this State, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise.

At any time prior to the filing of the articles of merger or

consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

**Section 89. SALE OF ASSETS IN REGULAR COURSE OF BUSINESS AND MORTGAGE OR PLEDGE OF ASSETS.**

The sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation in the usual and regular course of its business may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, including shares, obligations or other securities of any other corporation, domestic or foreign, as shall be authorized by its board of directors; and in any such case no authorization or consent of the shareholders shall be required, unless required by the provisions of the Constitution of Alabama as the same may be amended from time to time.

**Section 90. SALE OF ASSETS OTHER THAN IN REGULAR COURSE OF BUSINESS.**

A sale, lease, exchange, mortgage, pledge or other disposition, of all, or substantially all, the property and assets, with or without the good will, of a corporation, if not in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, including shares, obligations or other securities of any other corporation, domestic or foreign, as may be authorized in the following manner:

(a) The board of directors shall adopt a resolution recommending such sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than twenty days before such meeting, in the manner provided in this Act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes is to consider the proposed sale, lease, exchange, or other disposition.

(c) At such meeting the shareholders may authorize such sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require the affirmative vote of

the holders of two-thirds of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event such authorization shall require the affirmative vote of the holders of two thirds of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon.

(d) After such authorization by a vote of shareholders, the board of directors nevertheless, in its discretion, may abandon such sale, lease, exchange or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.

### **Section 91. RIGHT OF SHAREHOLDERS TO DISSENT.**

Any shareholder of a corporation shall have the right to dissent from any of the following corporate actions:

(a) Any plan of merger or consolidation to which the corporation is a party; or

(b) Any sale or exchange of all or substantially all of the property and assets of the corporation not made in the usual and regular course of its business, including a sale in dissolution, but not including a sale pursuant to an order of a court having jurisdiction in the premises or a sale for cash on terms requiring that all or substantially all of the net proceeds of sale be distributed to the shareholders in accordance with their respective interests within one year after the date of sale.

A shareholder may dissent as to less than all of the shares registered in his name. In that event, his rights shall be determined as if the shares as to which he has dissented and his other shares were registered in the names of different shareholders.

This section shall not apply to the shareholders of the surviving corporation in a merger if a vote of the shareholders of such corporation is not necessary to authorize such merger. Nor shall it apply to the holders of shares of any class or series if the shares of such class or series were registered on a national securities exchange on the date fixed to determine the shareholders entitled to vote at the meeting of shareholders at which a plan of merger or consolidation or a proposed sale or exchange of property and assets is to be acted upon unless the articles of incorporation of the corporation shall otherwise provide.

### **Section 92. RIGHTS OF DISSENTING SHAREHOLDERS.**

Any shareholder electing to exercise such right of dissent shall

file with the corporation, prior to or at the meeting of shareholders at which such proposed corporate action is submitted to a vote, a written objection to such proposed corporate action. If such proposed corporate action be approved by the required vote and such shareholder shall not have voted in favor thereof, such shareholder may, within ten days after the date on which the vote was taken or if a corporation is to be merged without a vote of its shareholders into another corporation, any of its shareholders may, within fifteen days after the plan of such merger shall have been mailed to such shareholders, make written demand on the corporation, or, in the case of a merger or consolidation, on the surviving or new corporation, domestic or foreign, for payment of the fair value of such shareholder's shares, and, if such proposed corporate action is effected, such corporation shall pay to such shareholder, upon surrender of the certificate or certificates representing such shares, the fair value thereof as of the day prior to the date on which the vote was taken approving the proposed corporate action, excluding any appreciation or depreciation in anticipation of such corporate action. Any shareholder failing to make demand within the applicable ten-day or fifteen-day period shall be bound by the terms of the proposed corporate action. Any shareholder making such demand shall thereafter be entitled only to payment as in this section provided and shall not be entitled to vote or to exercise any other rights of a shareholder.

No such demand may be withdrawn unless the corporation shall consent thereto. If, however, such demand shall be withdrawn upon consent, or if the proposed corporate action shall be abandoned or rescinded or the shareholders shall revoke the authority to effect such action, or if, in the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger, or if no demand or petition for the determination of fair value by a court shall have been made or filed within the time provided in this section, or if a court of competent jurisdiction shall determine that such shareholder is not entitled to the relief provided by this section, then the right of such shareholder to be paid the fair value of his shares shall cease and his status as a shareholder shall be restored, without prejudice to any corporate proceedings which may have been taken during the interim.

Within ten days after such corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting shareholder who has made demand as herein provided, and shall make a written offer to each

such shareholder to pay for such shares at a specified price deemed by such corporation to be the fair value thereof. Such notice and offer shall be accompanied by a balance sheet of the corporation the shares of which the dissenting shareholder holds, as of the latest available date and not more than twelve months prior to the making of such offer, and a profit and loss statement of such corporation for the twelve months' period ended on the date of such balance sheet.

If within thirty days after the date on which such corporate action was effected the fair value of such shares is agreed upon between any such dissenting shareholder and the corporation, payment therefor shall be made within ninety days after the date on which such corporate action was effected, upon surrender of the certificate or certificates representing such shares. Upon payment of the agreed value the dissenting shareholder shall cease to have any interest in such shares.

If within such period of thirty days a dissenting shareholder and the corporation do not so agree, then the corporation, within thirty days after receipt of written demand from any dissenting shareholder given within sixty days after the date on which such corporate action was effected, shall, or at its election at any time within such period of sixty days may, file a petition in any court of competent jurisdiction in the county in this State where the registered office of the corporation is located requesting that the fair value of such shares be found and determined. If, in the case of a merger or consolidation, the surviving or new corporation is a foreign corporation without a registered office in this State, such petition shall be filed in the county where the registered office of the domestic corporation was last located. If the corporation shall fail to institute the proceeding as herein provided, any dissenting shareholder may do so in the name of the corporation. All dissenting shareholders, wherever residing, shall be made parties to the proceeding as an action against their shares quasi in rem. A copy of the petition shall be served on each dissenting shareholder who is a resident of this State and shall be served by registered or certified mail on each dissenting shareholder who is a nonresident. Service on nonresidents shall also be made by publication as provided by law. The jurisdiction of the court shall be plenary and exclusive. All shareholders who are parties to the proceeding shall be entitled to judgment against the corporation for the amount of the fair value of their shares. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or an amendment thereof. The judgment shall be payable only upon and concurrently with the surrender to the

corporation of the certificate or certificates representing such shares. Upon payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares.

The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the circumstances, from the date on which the vote was taken on the proposed corporate action to the date of payment.

The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such costs and expenses may be apportioned and assessed as the court may deem equitable against any or all of the dissenting shareholders who are parties to the proceeding to whom the corporation shall have made an offer to pay for the shares if the court shall find that the action of such shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such expenses shall include reasonable compensation for and reasonable expenses of the appraisers and a reasonable attorney's fee, but shall exclude the fees and expenses of experts employed by any party; but if the fair value of the shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to any shareholder who is a party to the proceeding such sum as the court may determine to be reasonable compensation to any expert or experts employed by the shareholder in the proceeding.

Within twenty days after demanding payment for his shares, each shareholder demanding payment shall submit the certificate or certificates representing his shares to the corporation for notation thereon that such demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under this section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise direct. If shares represented by a certificate on which notation has been so made shall be transferred, each new certificate issued therefor shall bear similar notation, together with the name of the original dissenting holder of such shares, and a transferee of such shares shall acquire by such transfer no rights in the corporation other than those which the original dissenting shareholder had after making demand for payment of the fair value thereof.

Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the judgment entered therefor, as in this section provided, may be held and disposed of by such corporation as in the case of other treasury shares, except that, in the case of a merger or consolidation, they may be held and

disposed of as the plan of merger or consolidation may otherwise provide.

### **Section 93. VOLUNTARY DISSOLUTION BY INCORPORATORS.**

A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators at any time in the following manner:

(a) Articles of dissolution shall be executed by a majority of the incorporators, and verified by them, and shall set forth:

- (1) The name of the corporation.
- (2) The date of issuance of its certificate of incorporation.
- (3) That none of its shares have been issued.
- (4) That the corporation has not commenced business.
- (5) That the amount, if any, actually paid in or subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.
- (6) That no debts of the corporation remain unpaid.
- (7) That a majority of the incorporators elect that the corporation be dissolved.

(b) The articles of dissolution and a copy thereof shall be delivered to the Probate Judge. If the Probate Judge finds that the articles of dissolution conform to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the articles of dissolution and on the copy the word "Filed", and the hour, day, month and year of the filing thereof.

(2) File the articles of dissolution in his office and certify the copy thereof.

(3) Issue a certificate of dissolution to which he shall affix a certified copy of the articles of dissolution and return such certificate of dissolution with the certified copy of the articles of dissolution affixed thereto to the incorporators or their representative.

Upon the issuance of such certificate of dissolution, the existence of the corporation shall cease.

### **Section 94. VOLUNTARY DISSOLUTION BY CONSENT OF SHAREHOLDERS.**



A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

Upon the execution of such written consent, a statement of intent to dissolve shall be executed for the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (a) The name of the corporation.
- (b) The names and respective addresses of its officers.
- (c) The names and respective addresses of its directors.
- (d) A copy of the written consent signed by all shareholders of the corporation.
- (e) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.

#### **Section 95. VOLUNTARY DISSOLUTION BY ACT OF CORPORATION.**

A corporation may be dissolved by the act of the corporation, when authorized in the following manner:

(a) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this Act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation.

(c) At such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the resolution shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

(d) Upon the adoption of such resolution, a statement of intent to dissolve shall be executed for the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (1) The name of the corporation.
- (2) The names and respective addresses of its officers.
- (3) The names and respective addresses of its directors.

(4) A copy of the resolution adopted by the shareholders authorizing the dissolution of the corporation.

(5) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(6) The number of shares voted for and against the resolution, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against the resolution, respectively.

#### **Section 96. FILING OF STATEMENT OF INTENT TO DISSOLVE.**

The statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, shall be delivered to the Probate Judge. If the Probate Judge finds that such statement conforms to law, he shall, when all fees prescribed in this Act have been paid:

- (a) Endorse on the statement of intent to dissolve, the word "Filed", and the hour, day, month and year of the filing thereof.
- (b) File the statement of intent to dissolve in his office.

#### **Section 97. EFFECT OF STATEMENT OF INTENT TO DISSOLVE.**

Upon the filing of a statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, the corporation shall cease to carry on its business, except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until a certificate of dissolution has been issued or until a decree dissolving the corporation has been entered by a court of competent jurisdiction as in the Act provided.

#### **Section 98. PROCEDURE AFTER FILING OF STATEMENT OF INTENT TO DISSOLVE.**

After the filing of a statement of intent to dissolve:

(a) The corporation shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to its shareholders, pay, satisfy and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all its obligations, distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests.

(b) The corporation, at any time during the liquidation of its business and affairs, may make application to a court of competent jurisdiction within the state and judicial subdivision in which the registered office or principal place of business of the corporation is situated, to have the liquidation continued under the supervision of the court as provided in this Act.

#### **Section 99. REVOCATION OF VOLUNTARY DISSOLUTION PROCEEDINGS BY CONSENT OF SHAREHOLDERS.**

By the written consent of all of its shareholders, a corporation may, at any time prior to the issuance of a certificate of dissolution, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

Upon the execution of such written consent, a statement of revocation of voluntary dissolution proceedings shall be executed for the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (a) The name of the corporation.
- (b) The names and respective addresses of its officers.
- (c) The names and respective addresses of its directors.
- (d) A copy of the written consent signed by all shareholders of the corporation revoking such voluntary dissolution proceedings.
- (e) That such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.

#### **Section 100. REVOCATION OF VOLUNTARY DISSOLUTION PROCEEDINGS BY ACT OF CORPORATION.**

By the act of the corporation, a corporation may, at any time prior to the issuance of a certificate of dissolution revoke voluntary

dissolution proceedings theretofore taken, in the following manner:

(a) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of shareholders.

(b) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the advisability of revoking the involuntary dissolution proceedings, shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this Act for the giving of notice of special meetings of shareholders.

(c) At such meeting a vote of the shareholders entitled to vote thereat shall be taken on a resolution to revoke the voluntary dissolution proceedings, which shall require for its adoption the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon.

(d) Upon the adoption of such resolution, a statement of revocation of voluntary dissolution proceedings shall be executed for the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (1) The name of the corporation.
- (2) The names and respective addresses of its officers.
- (3) The names and respective addresses of its directors.
- (4) A copy of the resolution adopted by the shareholders revoking the voluntary dissolution proceedings.
- (5) The number of shares outstanding.
- (6) The number of shares voted for and against the resolution, respectively.

#### **Section 101. FILING OF STATEMENT OF REVOCATION OF VOLUNTARY DISSOLUTION PROCEEDINGS.**

The statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, shall be delivered to the Probate Judge. If the Probate Judge finds that such statement conforms to law, he shall, when all fees prescribed in this Act have been paid:

- (a) Endorse on the statement of revocation of voluntary dissolution proceedings the word "Filed", and the hour, day, month

and year of the filing thereof.

(b) File the statement of revocation of voluntary dissolution proceedings in his office.

## **Section 102. EFFECT OF STATEMENT OF REVOCATION OF VOLUNTARY DISSOLUTION PROCEEDINGS.**

Upon the filing of a statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation the revocation of the voluntary dissolution proceedings shall become effective and the corporation may again carry on its business.

## **Section 103. ARTICLES OF DISSOLUTION.**

If voluntary dissolution proceedings have not been revoked, then when all known debts, liabilities and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been distributed to its shareholders, articles of dissolution shall be executed for the corporation by its president or a vice president and by its secretary or by an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

(a) The name of the corporation.

(b) That a statement of intent to dissolve the corporation has theretofore been filed, and the date on which such statement was filed.

(c) That all known debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provisions have been made therefor.

(d) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests.

(e) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

## **Section 104. FILING OF ARTICLES OF DISSOLUTION.**

The articles of dissolution and a copy thereof shall be delivered to the Probate Judge. If the Probate Judge finds that such articles

of dissolution conform to law, he shall:

(a) Endorse on the articles of dissolution and on the copy the word "Filed", and the hour, day, month and year of the filing thereof.

(b) File the articles of dissolution in his office and certify the copy thereof.

(c) Issue a certificate of dissolution to which he shall affix a certified copy of the articles of dissolution, and return such certificate of dissolution with the certified copy of the articles of dissolution affixed thereto to the representative of the dissolved corporation.

Upon the issuance of such certificate of dissolution, the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by shareholders, directors and officers as provided in this Act.

### **Section 105. INVOLUNTARY DISSOLUTION.**

A corporation may be dissolved involuntarily by an order of the circuit court of the county in which the registered office of the corporation is situated in an action filed by the Attorney General when it is established that:

(a) The corporation has failed to file its annual report within the time required by this Act, or has failed to pay its franchise tax on or before the expiration of six months after the date on which such franchise tax becomes due and payable; or

(b) The corporation procured its articles of incorporation through fraud; or

(c) The corporation has repeatedly and willfully exceeded or abused the authority conferred upon it by law; or

(d) The corporation has failed for thirty days to appoint and maintain a registered agent in this state.

### **Section 106. NOTIFICATION TO ATTORNEY GENERAL AND SECRETARY OF STATE.**

The Commissioner of Revenue, on or before the last day of December of each year, shall certify to the Attorney General and to the Secretary of State the names of all corporations which have failed to file their annual reports or to pay franchise taxes, together with the facts pertinent thereto. He shall also certify, from time to time, the names of all corporations which have given other cause of dissolution as provided in this Act, together with the facts pertinent

thereto. Whenever the Commission of Revenue shall certify the name of a corporation to the Attorney General as having given any cause for dissolution, the Commissioner of Revenue shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the Attorney General shall file an action in the name of the State against such corporation for its dissolution. Every such certificate from the Commissioner of Revenue to the Attorney General pertaining to the failure of a corporation to file an annual report or pay a franchise tax shall be taken and received in all courts as prima facie evidence of the facts therein stated. If, before action is filed, the corporation shall file its annual report or pay its franchise tax, together with all penalties thereon, or shall appoint or maintain a registered agent as provided in this Act, such fact shall be forthwith certified by the Commissioner of Revenue or the Secretary of State to the Attorney General and he shall not file an action against such corporation for such cause. If, after action is filed, the corporation shall file its annual report or pay its franchise tax, together with all penalties thereon, or shall appoint or maintain a registered agent as provided in this Act, and shall pay the cost of such action, the action for such cause shall abate.

#### **Section 107. VENUE AND PROCESS.**

Every action for the involuntary dissolution of a corporation shall be commenced by the Attorney General in the circuit court of the county in which the registered office of the corporation is situated. Summons shall issue and be served as in other civil actions. If process is returned not found, the Attorney General shall cause service to be made by publication as in other civil cases in some newspaper published in the county where the registered office of the corporation is situated.

#### **Section 108. JURISDICTION OF COURT TO LIQUIDATE ASSETS AND BUSINESS OF CORPORATION.**

The circuit court of the county in which the registered office of the corporation is situated shall have full power to liquidate the assets and business of a corporation:

(a) In an action by a shareholder when it is established:

(1) That the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or

(2) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(3) That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired upon the election of their successors; or

(4) That the corporate assets are being misapplied or wasted;  
or

(5) That the corporation is insolvent.

(b) In an action by a creditor:

(1) When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent; or

(2) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation which has filed a statement of intent to dissolve, as provided in this Act, to have its liquidation continued under the supervision of the court.

(d) When an action has been filed by the Attorney General to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

Proceedings under this section shall be brought in the county in which the registered office of the corporation is situated.

It shall not be necessary to make shareholders parties to any such action or proceeding unless relief is sought against them personally.

### **Section 109. PROCEDURE IN LIQUIDATION OF CORPORATION BY COURT.**

In proceedings to liquidate the assets and business of a corporation the court shall have power to issue restraining orders or injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the business of the corporation until a full hearing can be had.

After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets



of the corporation, including all amounts owing to the corporation by subscribers on account of any unpaid portion of the consideration for the issuance of shares. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The assets of the corporation or the proceeds resulting from a sale, conveyance or other disposition thereof shall be applied to the expenses of such liquidation and to the payment of the liabilities and obligations of the corporation, and any remaining assets or proceeds shall be distributed among its shareholders according to their respective rights and interests. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

The court shall have power to allow from time to time as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceedings, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated.

#### **Section 110. QUALIFICATIONS OF RECEIVERS.**

A receiver shall in all cases be a natural person, a partnership, a professional association or a corporation authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this State, and shall in all cases give such bond as the court may direct with such sureties as the court may require.

#### **Section 111. FILING OF CLAIMS IN LIQUIDATION PROCEEDINGS.**

In proceedings to liquidate the assets and business of a corporation, the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed.

Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.

#### **Section 112. DISCONTINUANCE OF LIQUIDATION PROCEEDINGS.**

The liquidation of the assets and business of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

#### **Section 113. ORDER OF INVOLUNTARY DISSOLUTION.**

In proceedings to liquidate the assets and business of a corporation, when the costs and expenses of such proceedings and all debts, obligations and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed to its shareholders, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts and obligations, all the property and assets have been applied so far as they will go to their payment, the court shall enter an order dissolving the corporation, whereupon the existence of the corporation shall cease.

#### **Section 114. FILING OF ORDER OF DISSOLUTION.**

In case the court shall enter an order dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the order to be filed with the Probate Judge. No fee shall be charged by the Probate Judge for the filing thereof.

#### **Section 115. DEPOSIT WITH COMMISSIONER OF REVENUE OF AMOUNT DUE CERTAIN SHAREHOLDERS.**

Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or shareholder who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and deposited with the Commissioner of Revenue and shall be paid over to such creditor or shareholder or to his legal representative upon proof satisfactory to the Commissioner of Revenue of his right thereto.

#### **Section 116. SURVIVAL OF REMEDY AFTER**

## DISSOLUTION.

The dissolution of a corporation either (1) by the issuance of a certificate of dissolution by the Probate Judge, or (2) by a decree of court when the court has not liquidated the assets and business of the corporation as provided in this Act, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The shareholders, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years so as to extend its period of duration.

## Section 117. ADMISSION OF FOREIGN CORPORATION.

No foreign corporation shall have the right to transact business in this State until it shall have procured a certificate of authority so to do from the Secretary of State. No foreign corporation shall be entitled to procure a certificate of authority under this Act to transact in this State any business which a corporation organized under this Act is not permitted to transact. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or county under which such corporation is organized governing its organization and internal affairs differ from the laws of this State, and nothing in this Act contained shall be construed to authorize this State to regulate the organization or the internal affairs of such corporation.

## Section 118. POWERS OF FOREIGN CORPORATION.

A foreign corporation which shall have received a certificate of authority under this Act shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this Act, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authority is issued; and, except as in this Act otherwise provided, shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character.

**Section 119. CORPORATE NAME OF FOREIGN CORPORATION.**

No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

(a) Shall contain the word "corporation" or "incorporated" or shall contain an abbreviation of one of such words, or such corporation shall, for use in this State, add at the end of its name one of such words or an abbreviation thereof.

(b) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation or that it is authorized or empowered to conduct the business of banking, a trust company, or insurance, unless it be authorized or empowered to conduct the business of banking, a trust company or insurance.

(c) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this State or any foreign corporation authorized to transact business in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided in this Act, or the name of a corporation which has in effect a registration of its name as provided in this Act except that this provision shall not apply if the foreign corporation applying for a certificate of authority files with the Secretary of State any one of the following:

(1) A resolution of its board of directors adopting a fictitious name for use in transacting business in this State which fictitious name is not deceptively similar to the name of any domestic corporation or of any foreign corporation authorized to transact business in this State or to any name reserved or registered as provided in this Act, or

(2) The written consent of such other corporation or holder of a reserved or registered name to use the same or deceptively similar name and one or more words are added to make such name distinguishable from such other name, or

(3) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of such foreign corporation to the use of such name in this State.

**Section 120. CHANGE OF NAME BY FOREIGN CORPORATION.**

Whenever a foreign corporation which is authorized to transact business in this State shall change its name to one under which a certificate of authority would not be granted to it on

application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter transact any business in this State until it has changed its name to a name which is available to it under the laws of this State or has otherwise complied with the provisions of this Act.

#### **Section 121. APPLICATION FOR CERTIFICATE OF AUTHORITY.**

A foreign corporation, in order to procure a certificate of authority to transact business in this State, shall make application therefor to the Secretary of State, which application shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) If the name of the corporation does not contain the word "corporation" or "incorporated", or does not contain an abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this State.

(c) The date of incorporation and the period of duration of the corporation.

(d) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(e) The address of the proposed registered office of the corporation in this State, and the name of its proposed registered agent in this State at such address.

(f) The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in this State, which may include the transaction of any or all lawful business for which corporations may be organized under this Act.

(g) The names and respective addresses of the directors and officers of the corporation.

(h) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(i) A statement of the aggregate number of issued shares itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(j) A statement, expressed in dollars, of the amount of stated capital of the corporation, as defined in this Act.

(k) Such additional information as may be necessary or

appropriate in order to enable the Secretary of State to determine whether such corporation is entitled to a certificate of authority to transact business in this State and to determine and assess the fees payable as in this Act prescribed.

Such application shall be made on forms prescribed and furnished by the Secretary of State and shall be executed for the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such application.

### **Section 122. FILING OF APPLICATION FOR CERTIFICATE OF AUTHORITY.**

The application of the corporation for a certificate of authority and one copy thereof shall be delivered to the Secretary of State, together with a certified copy of its articles of incorporation and all amendments thereto.

If the Secretary of State finds that such application conforms to law, he shall, when all fees prescribed in this Act have been paid:

(a) Endorse on such application and on the copy thereof the word "Filed", and the hour, day, month and year of the filing thereof.

(b) File in his office the application and the certified copy of the articles of incorporation and amendments thereto and certify the copy of such application.

(c) Issue a certificate of authority to transact business in this State to which he shall affix the copy of the application, and return such certificate of authority with the certified copy of the application affixed thereto to the corporation or its representative.

### **Section 123. EFFECT OF CERTIFICATE OF AUTHORITY.**

Upon the issuance of a certificate of authority by the Secretary of State, the corporation shall be authorized to transact business in this State for those purposes set forth in its application, subject, however, to the right of this State to suspend or to revoke such authority as provided in this Act.

### **Section 124. REGISTERED OFFICE AND REGISTERED AGENT OF FOREIGN CORPORATION.**

Each foreign corporation authorized to transact business in this State shall have and continuously maintain in this State:

(a) A registered office which may be, but need not be, the

same as its place of business in this State.

(b) A registered agent, which agent may be either an individual resident in this State whose business office is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this State, having a business office identical with such registered office.

#### **Section 125. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT OF FOREIGN CORPORATION.**

A foreign corporation authorized to transact business in this State may change its registered office or change its registered agent, or both, upon filing in the Office of the Secretary of State a statement setting forth:

- (a) The name of the corporation.
- (b) The address of its then registered office.
- (c) If the address of its registered office be changed, the address to which the registered office is to be changed.
- (d) The name of its then registered agent.
- (e) If its registered agent be changed, the name of its successor registered agent.
- (f) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

Such statement shall be executed for the corporation by its president or a vice president, and verified by him, and delivered to the Secretary of State. If the Secretary of State finds that such statement conforms to the provisions of this Act, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the Secretary of State, who shall forthwith mail a copy thereof to the corporation at its principal office in the state or country under the laws of which it is incorporated. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the Secretary of State.

If a registered agent changes his or its business address to another place within the same county, he or it may change such address and the address of the registered office of any corporation

of which he or it is registered agent by filing a statement as required above except that it need be signed only by the registered agent and need not be responsive to (e) and must recite that a copy of the statement has been mailed to the corporation.

#### **Section 126. SERVICE OF PROCESS ON FOREIGN CORPORATION.**

The registered agent so appointed by a foreign corporation authorized to transact business in this State shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation authorized to transact business in this State shall fail to appoint or maintain a registered agent in this State, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then it may be served as provided by the Alabama Rules of Civil Procedure.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a foreign corporation in any other manner now or hereafter permitted by law.

#### **Section 127. AMENDMENT TO ARTICLES OF INCORPORATION OF FOREIGN CORPORATION.**

Whenever the articles of incorporation of a foreign corporation authorized to transact business in this State are amended, such foreign corporation shall, within thirty days after such amendment becomes effective, file in the office of the Secretary of State a copy of such amendment duly authenticated by the proper officer of the state or country under the laws of which it is incorporated; but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in the transaction of business in this State, nor authorize such corporation to transact business in this State under any other name than the name set forth in its certificate of authority.

#### **Section 128. MERGER OF FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE; EFFECT OF MERGER OR CONSOLIDATION OF FOREIGN CORPORATION.**

Whenever a foreign corporation authorized to transact business in this State shall be a party to a statutory merger



permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall, within thirty days after such merger becomes effective, file with the Secretary of State a copy of the articles of merger duly authenticated by the proper officer of the state or country under the laws of which such statutory merger was effected; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to transact business in this State unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this State other or additional purposes than those which it is then authorized to transact in this State.

The effect of a merger or consolidation of two or more foreign corporations shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of the state or states under the laws of which the merger or consolidation was effected provide otherwise; provided, however, that a foreign corporation resulting from any consolidation of two or more foreign corporations, or a foreign corporation surviving any merger of two or more foreign corporations, that is not at the time of such consolidation or merger authorized to transact business in this State, shall not thereafter do any business in this State without first obtaining a certificate of authority to transact business in this State in the manner provided by the laws of this State.

#### **Section 129. AMENDED CERTIFICATE OF AUTHORITY.**

A foreign corporation authorized to transact business in this State shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this State other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the Secretary of State.

The requirements in respect to the form and contents of such application, the manner of its execution, the filing thereof with the Secretary of State, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

#### **Section 130. WITHDRAWAL OF FOREIGN CORPORATION.**

A foreign corporation authorized to transact business in this State may withdraw from this State upon procuring from the

Secretary of State a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the Secretary of State an application for withdrawal, which shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) That the corporation is not transacting business in this State.

(c) That the corporation surrenders its authority to transact business in this State.

(d) That the corporation revokes the authority of its registered agent in this State to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this State during the time the corporation was authorized to transact business in this State may thereafter be made on such corporation by service thereof on the Secretary of State.

(e) A post-office address to which the Secretary of State may mail a copy of any process against the corporation that may be served on him.

(f) Such additional information as may be necessary or appropriate in order to enable the Secretary of State to determine and assess any unpaid fees payable by such foreign corporation as in this Act prescribed.

The application for withdrawal shall be made on forms prescribed and furnished by the Secretary of State and shall be executed for the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him.

### **Section 131. FILING OF APPLICATION FOR WITHDRAWAL.**

The application for withdrawal and one copy thereof shall be delivered to the Secretary of State. If the Secretary of State finds that such application conforms to the provisions of this Act, he shall, when all fees prescribed in this Act and franchise taxes have been paid:

(a) Endorse on such application and on the copy thereof the word "Filed", and the hour, day, month and year of the filing

thereof.

(b) File the application in his office and certify the copy of the application.

(c) Issue a certificate of withdrawal to which he shall affix the certified copy of the application, and return such certificate of withdrawal with the certified copy of the application affixed thereto to the corporation or its representative.

Upon the issuance of such certificate of withdrawal by the Secretary of State, the authority of the corporation to transact business in this State shall cease.

### **Section 132. REVOCATION OF CERTIFICATE OF AUTHORITY.**

The certificate of authority of a foreign corporation to transact business in this State may be revoked by the Secretary of State upon the conditions prescribed in this section when:

(a) The corporation has failed to file its annual report within the time required by this Act, or has failed to pay any fees, franchise taxes or penalties prescribed by law when they have become due and payable; or

(b) The corporation has failed to appoint and maintain a registered agent in this State as required by this Act; or

(c) The corporation has failed, after change of its registered office or registered agent, to file in the office of the Secretary of State a statement of such change as required by this Act; or

(d) The corporation has failed to file in the office of the Secretary of State certified copies of any amendment to its articles of incorporation or certified copies of any articles of merger within the time prescribed by this Act; or

(e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this Act.

No certificate of authority of a foreign corporation shall be revoked by the Secretary of State unless (1) he shall have given the corporation not less than 60 days' notice thereof by mail addressed to its registered office in this State, and (2) the corporation, having exhausted its administrative and judicial remedies, shall fail prior to revocation to file such annual report, or pay such fees, franchise taxes or penalties, or file the required statement of change of registered agent or registered office, or file such articles of amendment or articles of merger, or correct such

misrepresentation.

**Section 133. ISSUANCE OF CERTIFICATE OF REVOCATION.**

Upon revoking any such certificate of authority, the Secretary of State shall:

- (a) Issue a certificate of revocation.
- (b) File the certificate of revocation in his office and certify a copy thereof.
- (c) Mail to such corporation at its registered office in this State a notice of such revocation accompanied by the certified copy of the certificate of revocation.

Upon the issuance of such certificate of revocation, the authority of the corporation to transact business in this State shall cease.

**Section 134. APPLICATION TO CORPORATIONS HERETOFORE AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE.**

Foreign corporations which are duly authorized to transact business in this State at the time this Act takes effect, for a purpose or purposes for which a corporation might secure such authority under this Act, shall be entitled to all the rights and privileges applicable to foreign corporations procuring certificates of authority to transact business in this State under this Act and from the time this Act takes effect such corporations shall be subject to all the limitations, restrictions, liabilities and duties prescribed herein for foreign corporations procuring certificates of authority to transact business in this State under this Act.

**Section 135. TRANSACTING BUSINESS WITHOUT CERTIFICATE OF AUTHORITY.**

All contracts or agreements made or entered into in this State by foreign corporations which have not obtained a certificate of authority to transact business in this State shall be held void at the action of such foreign corporation or any person claiming through or under such foreign corporation by virtue of said void contract or agreement; but nothing in this section shall abrogate the equitable rule that he who seeks equity must do equity; provided, that the failure of a foreign corporation to obtain a certificate of authority shall not impair the validity of any contract or agreement heretofore or hereafter entered into and consisting of a mortgage upon real property or an interest in real property in this State, and

the note secured thereby, where the mortgage is insured by the Federal Housing Administration or guaranteed by the Veterans Administration, if said foreign corporation shall have thereafter obtained a certificate of authority. In all actions against such foreign corporation, or against any person claiming under such foreign corporation by virtue of such void contract, the foreign corporation or such person claiming under it shall be held to be estopped from setting up the fact that the contract or agreement was so made in violation of law. In all actions against foreign corporations who have not obtained a certificate of authority, the summons or other process may be served upon the officer, agent or employee of the foreign corporation who acted for or represented such foreign corporation in making the contract or agreement sued upon.

A foreign corporation which transacts business in this State without a certificate of authority shall be liable to this State, for the years or parts thereof during which it transacted business in this State without a certificate of authority, in an amount equal to all fees and taxes which would have been imposed upon such corporation had it duly applied for and received a certificate of authority to transact business in this State as required by this Act and thereafter filed all reports required by this Act, plus all penalties imposed for failure to pay such fees and taxes. The Attorney General shall bring proceedings to recover all amounts due this State under the provisions of this Section.

### **Section 136. ANNUAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS.**

Each domestic corporation, and each foreign corporation authorized to transact business in this State, shall file, within the time prescribed by this Act, an annual report setting forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The address of the registered office of the corporation in this State, and the name of its registered agent in this State at such address, and, in case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated.

(c) A brief statement of the character of the business in which the corporation is actually engaged in this State.

(d) The names and respective addresses of the president and secretary of the corporation.

Such annual report shall be made on prescribed forms and the information therein contained shall be given as of the date of the execution of the report. It shall be executed for the corporation by its president, a vice president, secretary, an assistant secretary, or treasurer, and verified by the officer executing the report, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and verified by such receiver or trustee.

**Section 137. FILING OF ANNUAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS.**

Such annual report of a domestic or foreign corporation shall be delivered to the Secretary of State between the first day of January and the fifteenth day of March of each year except that the first annual report of a domestic or foreign corporation shall be filed between the first day of January and the fifteenth day of March of the year, next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the Secretary of State. Proof to the satisfaction of the Secretary of State that prior to the fifteenth day of March such report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the Secretary of State finds that such report conforms to the requirements of this Act, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file such report within the time hereinabove provided shall not apply, if such report is corrected to conform to the requirements of this Act and returned to the Secretary of State within 30 days from the date on which it was mailed to the corporation by the Secretary of State.

**Section 138. FEES, CHARGES AND PENALTIES TO BE COLLECTED BY PROBATE JUDGE AND SECRETARY OF STATE.**

The Probate Judge or the Secretary of State, as the case may be, shall charge and collect in accordance with the provisions of this Act:

- (a) Fees for filing documents and issuing certificates.
- (b) Miscellaneous charges and penalties imposed by this Act.

**Section 139. FEES FOR FILING DOCUMENTS AND ISSUING CERTIFICATES.**

In lieu of all other charges and fees the Probate Judge shall charge and collect in accordance with the provisions of this Act:

(a) Filing articles of incorporation and issuing a certificate of incorporation, Twenty dollars for the State of Alabama and Twenty-Five dollars for the Probate Judge.

(b) Filing articles of corrections, Ten dollars for the Probate Judge.

(c) Filing articles of amendment and issuing a certificate of amendment, Ten dollars for the Probate Judge.

(d) Filing restated articles of incorporation, Twenty-Five dollars for the Probate Judge.

(e) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, Seventy-Five dollars for the State of Alabama and Twenty-Five dollars for the Probate Judge.

(f) Filing an application to reserve a corporate name, Five dollars for the State of Alabama.

(g) Filing a notice of transfer of a reserved corporate name, Five dollars for the State of Alabama.

(h) Filing a statement of change of address of registered office or change of registered agent, or both, Five dollars for the State of Alabama.

(i) Filing a statement of the establishment of a series of shares, Five dollars for the Probate Judge.

(j) Filing a statement of cancellation of shares, Five dollars for the Probate Judge.

(k) Filing a statement of reduction of stated capital, Five dollars for the Probate Judge.

(l) Filing a statement of intent to dissolve, Five dollars for the Probate Judge.

(m) Filing a statement of revocation of voluntary dissolution proceedings, Five dollars for the Probate Judge.

(n) Filing articles of dissolution, Five dollars for the Probate Judge.

(o) Filing an application of a foreign corporation for a certificate of authority to transact business in this State and issuing a certificate of authority, Seventy-five dollars for the State of Alabama.

(p) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this State and issuing an amended certificate of authority, Twenty-five dollars for the State of Alabama.

(q) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this State, Twenty-five dollars for the State of Alabama.

(r) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this State, One Hundred dollars for the State of Alabama.

(s) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, Five dollars for the State of Alabama.

(t) Filing an annual report or any other statement or report, of a domestic or foreign corporation, Five dollars for the State of Alabama.

When appropriate two checks shall accompany the document, one payable to the Probate Judge for all charges for the Probate Judge, and one payable to the State of Alabama covering all charges for the Secretary of State. The check for the Secretary of State will be forwarded by the Probate Judge to the Secretary of State.

The fees herein imposed for the State of Alabama shall be collected by the Secretary of State and paid into the treasury of the State.

The fees herein imposed for the Office of the Probate Judge shall be charged and paid into the appropriate county treasury or to the Probate Judge as may be authorized or required by law.

#### **Section 140. MISCELLANEOUS CHARGES.**

The Probate Judge or Secretary of State shall charge and collect:

(a) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, One Dollar Fifty cents per page and One Dollar Fifty cents for the certificate and affixing the seal thereto.

(b) At the time of any service of process on the Secretary of State as resident agent of a corporation, an amount as prescribed pursuant to law or rule of court.



**Section 141. PENALTIES IMPOSED UPON CORPORATIONS.**

Each corporation, domestic or foreign, that fails or refuses to file its annual report for any year within the time prescribed by this Act, or within 30 days after receipt of written notice of its failure to file its annual report, shall be subject to a penalty of ten per cent of the amount of the franchise tax assessed against it for the period of the year in which such report should have been filed or Five Hundred dollars whichever is the lesser.

**Section 142. PENALTIES IMPOSED UPON OFFICERS AND DIRECTORS.**

Each officer or director of a corporation, domestic or foreign, who signs any articles, statement, report, application or other document filed with the Secretary of State which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon receiving conviction thereof may be fined in any amount not exceeding five hundred dollars.

**Section 161. LAW APPLICABLE TO CLOSE CORPORATIONS.**

(a) Sections 161 through 174 of this Act apply to all close corporations, as defined in section 162 of this Act. Unless a corporation elects to become a close corporation in the manner prescribed, it shall be subject in all respects to the provisions of this Act, except sections 162 through 174 dealing with close corporations.

(b) All provisions of this Act shall be applicable to all close corporations as defined in section 162 herein except insofar as sections 162 through 174 otherwise provide.

(c) Neither election to become, nor operation as, a close corporation shall deprive any share holder of such corporation of the limitation of liability provided under section 25 of this Act.

**Section 162. CLOSE CORPORATION DEFINED: CONTENTS OF ARTICLES OF INCORPORATION.**

(a) A close corporation is a corporation organized under this Act whose articles of incorporation contain the provisions required by section 64 of this Act and, in addition, provide that:

(1) The corporation is a close corporation authorized by Sections 161 through 174 of this Act;

(2) All of the issued shares of all classes shall be subject to one

or more of the restrictions on transfer permitted by section 23 of this Act; and

(3) For purposes of determining the number of holders of record of the stock of a close corporation, stock which is held in joint or common tenancy or by the entireties shall be treated as held by one shareholder.

(b) The articles of incorporation of a close corporation may set forth the qualifications of shareholders, either by specifying classes of persons who shall be entitled to be holders of record of shares of any class, or by specifying classes of persons who shall not be entitled to be holders of shares of any class or both.

(c) All of the corporation's issued shares of all classes, exclusive of treasury shares, shall be held of record by not more than a specified number of persons, not exceeding 30.

#### **Section 163. FORMATION OF A CLOSE CORPORATION.**

A close corporation shall be formed in accordance with sections 63 through 68 of this Act, except that such formation must be authorized by the affirmative vote of all holders of and subscribers to shares of the corporation, and:

(a) The articles of incorporation shall contain a heading stating the name of the corporation and that it is a close corporation, and

(b) The articles of incorporation shall contain the provisions required by section 162 of this Act, and

(c) Each certificate for shares shall conspicuously note the fact that the corporation is a close corporation and make reference to the restriction on transfer of shares set forth in the articles of incorporation.

#### **Section 164. ELECTION OF EXISTING CORPORATION TO BECOME A CLOSE CORPORATION.**

Any corporation subject to this Act may become a close corporation by amending its articles of incorporation to contain a statement that it elects to become a close corporation, to contain the provisions required by section 162 of this Act to appear in the articles of incorporation of a close corporation, and to contain a heading stating the name of the corporation and that it is a close corporation. Such amendment shall be adopted in accordance with the requirements of this Act, except that it must be approved by the unanimous affirmative vote of the holders of record of all the shares

of each class of stock of the corporation which are outstanding.

**Section 165. VOLUNTARY TERMINATION OF CLOSE CORPORATION STATUS BY AMENDMENT OF ARTICLES OF INCORPORATION; VOTE REQUIRED.**

(a) A corporation may voluntarily terminate its status as a close corporation and cease to be subject to this article by amending its articles of incorporation to delete therefrom the additional provisions required or permitted by section 162 of this Act to be stated in the articles of incorporation of close corporation except such provisions as are permitted by this Act which the corporation chooses to retain. Any such amendment shall be adopted and shall become effective in accordance with section 74, of this Act, except that it must be approved by a vote of the holders of record of at least one-third of the shares of each class of stock of the corporation which are outstanding.

(b) The articles of incorporation of a close corporation may provide that on any amendment to terminate its status as a close corporation, a vote greater than one-third or a vote of all shares of any class shall be required; and if the certificate of incorporation contains such a provision, that provision shall not be amended, repealed or modified by any vote less than that required to terminate the corporation's status as a close corporation.

**Section 166. ISSUANCE OR TRANSFER OF SHARES OF A CLOSE CORPORATION IN BREACH OF QUALIFYING CONDITIONS.**

(a) If shares of a close corporation are issued or transferred to any person who is not entitled under any provision of the articles of incorporation permitted by section 162 of this Act to be a holder of record of shares of such corporation, and if the certificate for shares conspicuously notes the qualifications of the persons entitled to be holders of record thereof, such person is conclusively presumed to have notice of the fact of his ineligibility to be a shareholder.

(b) If a certificate for shares of any close corporation conspicuously notes the fact of a restriction on transfer of shares of the corporation and the restriction is one which is permitted by section 23 of this Act, the transferee of the shares is conclusively presumed to have notice of the fact that he has acquired shares in violation of the restriction, if such acquisition violates the restriction.

(c) Whenever any person to whom shares of a close corporation have been issued or transferred has, or is conclusively presumed under this section to have notice either that he is a person

not eligible to be a holder of shares of the corporation, or that the transfer of shares is in violation of a restriction on transfer of shares, the corporation may, at its option, refuse to register transfer of the shares in to the name of the transferee in addition to any remedies which may be available under section 23 of this Act or otherwise.

(d) The provisions of subsection (c) shall not be applicable if the transfer of shares even though otherwise contrary to subsections (a) or (b), has been consented to by all the shareholders of the close corporation, or if the close corporation has amended its articles of incorporation in accordance with section 165 of this Act.

(e) The term "transfer", as used in this section, is not limited to a transfer for value.

(f) The provisions of this section do not in any way impair any rights of a transferee regarding any right to rescind the transaction or to recover under any applicable warranty express or implied.

#### **Section 167. CORPORATE OPTION WHERE A RESTRICTION ON TRANSFER OF SHARES IS HELD INVALID.**

If a restriction on transfer of shares of a close corporation is held not to be authorized by section 23 of this Act, the corporation shall nevertheless have an option for a period of thirty days after the judgment setting aside the restriction becomes final, to acquire the restricted shares at a price which is agreed upon by the parties or if no agreement is reached as to price, then at the fair value as determined by the Circuit Court of the county in which the corporation has its registered office or any court in such place having jurisdiction. In order to determine fair value, the court may appoint an appraiser to receive evidence and report to the court his findings and recommendation as to fair value. The appraiser shall have such powers and shall proceed, so far as applicable, in the same manner as appraisers appointed under section 92 of this Act.

#### **Section 168. AGREEMENTS RESTRICTING DISCRETION OF DIRECTORS.**

A written agreement among the shareholders of a close corporation holding a majority of the outstanding shares entitled to vote, whether solely among themselves or with a party not a shareholder, is not invalid, as between the parties to the agreement, on the ground that it so relates to the conduct of the business and affairs of the corporation as to restrict or interfere with the discretion or powers of the board of directors. The effect of any such agreement shall be to relieve the directors and impose upon the

shareholders who are parties to the agreement the liability for managerial acts or omissions which is imposed on directors to the extent and so long as the discretion or powers of the board in its management of corporate affairs is controlled by such agreement.

### **Section 169. MANAGEMENT BY SHAREHOLDERS.**

The articles of incorporation of a close corporation may provide that the business of the corporation shall be managed by the shareholders of the corporation rather than by a board of directors. So long as this provision continues in effect,

(1) No meeting of shareholders need be called to elect directors;

(2) Unless the context clearly requires otherwise, the shareholders of the corporation shall be deemed to be directors for purposes of applying provisions of this article; and

(3) The shareholders of the corporation shall be subject to all liabilities of directors.

Such a provision may be inserted in the articles of incorporation by amendment if all incorporators and subscribers or all holders of record of all of the outstanding shares, whether or not having voting power, authorize such a provision. An amendment to the articles of incorporation to delete such a provision shall be adopted by a vote of the holders of record of not less than one-third of all outstanding shares of the corporation, whether or not otherwise entitled to vote. If the articles of incorporation contain a provisions authorized by this section, the existence of such provisions shall be noted conspicuously on the face or back of every certificate for shares issued by such corporation.

### **Section 170. APPOINTMENT OF CUSTODIAN FOR CLOSE CORPORATION.**

(a) The Circuit Court of the county in which the corporation has its registered office or any court in such place having jurisdiction, upon application of any shareholder, may appoint one or more persons to be custodians, and, if the corporation is insolvent, to be receivers, of any close corporation when:

(1) Pursuant to section 169 of this Act the business and affairs of the corporation are managed by the shareholders and they are so divided that the business of the corporation is suffering or is threatened with irreparable injury and any remedy with respect to such deadlock provided in the articles of incorporation or by-laws or in any written agreement of the shareholders has failed; or

(2) The petitioning shareholder has the right to the dissolution of the corporation under a provision of the articles of incorporation permitted by section 173 of this Act.

(b) In lieu of appointing a custodian for a close corporation under this section the court may appoint a provisional director, whose powers and status shall be as provided in section 171 of this Act if the Court determines that it would be in the best interest of the corporation. Such appointment shall not preclude any subsequent order of the Court appointing a custodian for such corporation.

(c) A custodian appointed under this section shall have all the powers of a receiver appointed under section 109 of this Act, but the authority of the custodian is to continue the business of the corporation and not to liquidate its affairs and distribute its assets, except when the court shall otherwise order.

#### **Section 171. APPOINTMENT OF A PROVISIONAL DIRECTOR IN CERTAIN CASES.**

(a) Notwithstanding any contrary provision of the articles of incorporation or the by-laws or agreement of the shareholders, the Circuit Court of the county in which the registered office of the corporation is located may appoint a provisional director for a close corporation if the directors are so divided respecting the management of the corporation's business and affairs that the votes required for action by the board of directors cannot be obtained with the consequence that the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally.

(b) An application for relief under this section must be filed (1) by at least one-half of the number of directors then in office, or (2) by the holders of at least one-third of all shares then entitled to elect directors, or, (3) if there be more than one class of shares then entitled to elect one or more directors, by the holders of two-thirds of the shares of any such class; but the articles of incorporation of a close corporation may provide that a lesser proportion of the directors or of the shareholders or of a class of shareholders may apply for relief under this section.

(c) A provisional director shall be an impartial person who is neither a shareholder nor a creditor of the corporation or of any subsidiary or affiliate of the corporation, and whose further qualifications, if any, may be determined by the Circuit Court of the county. A provisional director is not a receiver of the corporation and does not have the title and powers of a custodian or receiver. A

provisional director shall have all the rights and powers of a duly elected director of the corporation, including the right to notice of and to vote at meetings of directors, until such time as he shall be removed by order of the Circuit Court of the county or by the holders of a majority of all shares then entitled to vote to elect directors or by the holders of two-thirds of the shares of that class of voting shares which filed the application for appointment of a provisional director. His compensation shall be determined by agreement between him and the corporation subject to approval of the Circuit Court of the county, which may fix his compensation in the absence of agreement or in the event of disagreement between the provisional director and the corporation.

(d) Even though the requirements of subsection (b) of this section relating to the number of directors or shareholders who may petition for appointment of a provisional director are not satisfied, the Circuit Court of the county may nevertheless appoint a provisional director if permitted by subsection (b) of section 170 of this Act.

#### **Section 172. SHAREHOLDERS' AGREEMENTS.**

No written agreement among shareholders of a close corporation, nor any provision of the articles of incorporation or of the by-laws of the corporation, which agreement or provision relates to any phase of the affairs of such corporation, including but not limited to the management of its business or declaration and payment of dividends or other division of profits or the election of directors or officers or the employment of shareholders by the corporation or the arbitration of disputes, shall be invalid on the ground that it is an attempt by the parties to the agreement or by the shareholders of the corporation to treat the corporation as if it were a partnership or to arrange relations among the shareholders or between the shareholders and the corporation in a manner that would be appropriate only among partners.

#### **Section 173. SHAREHOLDERS' OPTION TO DISSOLVE CORPORATION.**

(a) The articles of incorporation of any close corporation may include a provision granting to any shareholder, or to the holders of any specified number or percentage of shares of any class of shares, an option to have the corporation dissolved at will or upon the occurrence of any specified event or contingency. Whenever any such option to dissolve is exercised, the shareholders exercising such option shall give written notice thereof to all other shareholders. After the expiration of 30 days following the sending of such notice, the dissolution of the corporation shall proceed as if

the required number of shareholders having voting power had consented in writing to dissolution of the corporation as provided by section 94 of this Act.

(b) If the articles of incorporation as originally filed do not contain a provision authorized by subsection (a), the articles may be amended to include such provision if adopted by the affirmative vote of the holders of all the outstanding shares, whether or not entitled to vote, unless the articles of incorporation specifically authorizes such an amendment by a vote which shall be not less than two-thirds of all the outstanding shares whether or not entitled to vote.

(c) Each certificate for shares in any corporation whose articles of incorporation authorize dissolution as permitted by this section shall conspicuously note on the face thereof the existence of the provision. Unless noted conspicuously on the face of the certificate for shares the provision is ineffective.

#### **Section 174. EFFECT OF THE CLOSE CORPORATION PROVISIONS ON OTHER LAWS.**

Sections 161 through 174 of this Act shall not be deemed to repeal any statute or rule of law which is or would be applicable to any corporation which is organized under the provisions of this Act but is not a close corporation.

#### **Section 180. POWERS OF PROBATE JUDGE AND SECRETARY OF STATE.**

Each Probate Judge and the Secretary of State shall have the power and authority reasonably necessary to enable him to administer this Act efficiently and to perform his duties therein imposed upon him.

#### **Section 181. APPEAL FROM PROBATE JUDGE OR SECRETARY OF STATE.**

If the Probate Judge or the Secretary of State, when applicable, shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this Act to be approved by the Probate Judge or the Secretary of State, before the same shall be filed in his office, he shall, within ten days after the delivery thereof to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the circuit court of the county in which the disapproving officer has his office by filing with the clerk of such court a



complaint setting forth a copy of the articles or other documents sought to be filed and a copy of the written disapproval thereof by the Probate Judge or Secretary of State; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the Probate Judge or Secretary of State, as the case may be, or direct him to take such action as the court may deem proper.

If the Secretary of State shall revoke the certificate of authority to transact business in this State of any foreign corporation, pursuant to the provisions of this Act, such foreign corporation may likewise appeal to the circuit court of Montgomery county by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to transact business in this State and a copy of the notice of revocation given by the Secretary of State; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the Secretary of State or direct him to take such action as the court may deem proper.

Appeals from all final orders and judgments entered by the circuit court under this section in review of any ruling or decision of the Probate Judge or Secretary of State may be taken as in other civil actions.

#### **Section 182. CERTIFICATES AND CERTIFIED COPIES TO BE RECEIVED IN EVIDENCE.**

All certificates issued by the Probate Judge or Secretary of State in accordance with the provisions of this Act, and all copies of documents filed in his office in accordance with the provisions of this Act when certified by him, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated, except as provided in section 66 of this Act. A certificate by the Probate Judge or Secretary of State as to the existence or non-existence of the facts relating to corporations shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or non-existence of the facts therein stated, except as provided in section 66 of this Act.

#### **Section 183. FORMS TO BE FURNISHED BY SECRETARY OF STATE.**

All reports required by this Act to be filed in the office of the Secretary of State shall be made on forms which shall be prescribed and furnished by the Secretary of State.

#### **Section 184. APPLICATION TO EXISTING CORPORATIONS.**

The provisions of this Act shall apply to all existing corporations organized under any general or special law of this State providing for the organization of corporations for a purpose or purposes for which a corporation might be organized under this Act, where the power has been reserved to amend, repeal or modify the act under which such corporation was organized and where such act is repealed by this Act.

#### **Section 185. APPLICATION TO CORPORATIONS GENERALLY.**

Without in any way limiting the generality of any provision of this Act, all of the provisions of this Act shall apply to banks, trust companies, savings and loan associations, insurance companies, public utilities and railroad companies, except to the extent, if any, that any provision of this Act is inconsistent with other statutes of this State specifically applicable to such corporations.

#### **Section 186. APPLICATION TO FOREIGN AND INTERSTATE COMMERCE.**

The provisions of this Act shall apply to commerce with foreign nations and among the several states only insofar as the same may be permitted under the provisions of the Constitution of the United States.

#### **Section 187. RESERVATION OF POWER.**

The legislature shall at all times have power to prescribe such regulations, provisions and limitations as it may deem advisable, which regulations, provisions and limitations shall be binding upon any and all corporations subject to the provisions of this Act, and the legislature shall have power to amend, repeal or modify this Act at pleasure.

#### **Section 188. EFFECT OF REPEAL OF PRIOR ACTS.**

The repeal of a prior act by this Act shall not impair, or otherwise affect, the organization or the continued existence of an existing corporation, nor the right of any foreign corporation presently qualified to do business in this State to continue to do so without again qualifying to do business in this State. Nor shall the repeal of a prior act by this Act affect any right accrued or established, or any liability or penalty incurred, or the construction of the certificate of incorporation or charter of any corporation organized before the enactment of this Act, or the determination of the rights and interests of any of its shareholders or creditors, under the provisions of such prior act before the repeal thereof.

#### **Section 189. EFFECT OF INVALIDITY OF PART OF**

**THIS ACT.**

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this Act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this Act so adjudged to be invalid or unconstitutional.

**Section 190. FILING AND RECORDING.**

All documents filed by the Probate Judge or the Secretary of State shall be recorded and a permanent record thereof shall be maintained by such office but no document shall be filed or recorded unless it complies with the provisions of this Act. When such document has been filed and recorded, the said executed copy of the document shall be returned to the corporation or its representative.

**Section 191. FILINGS FOR CORPORATIONS CREATED BY ACT OF LEGISLATURE OR RESULTING FROM MERGER OR CONSOLIDATION.**

For corporations created by an act of the legislature prior to the adoption of the Constitution of 1901 or which resulted from a merger or consolidation, all documents required by this Act to be delivered to the Probate Judge for filing shall be delivered to the Secretary of State for filing, all certificates required to be issued by the Probate Judge shall be issued by the Secretary of State, and all fees with respect to such filings and issuance of certificates shall be paid to the Secretary of State for the State of Alabama.

**Section 192. LAWS REPEALED.**

The following sections and all amendments thereto and all other sections and parts of sections in the Code of Alabama, 1975 inconsistent herewith are hereby repealed:

10-2-1 through 10-2-7, 10-2-20, 10-2-22 through 10-2-35, 10-2-50 through 10-2-58, 10-2-70, 10-2-71, 10-2-90 through 10-2-98, 10-2-110, 10-2-111, 10-2-112, 10-2-113, 10-2-114, 10-2-130 through 10-2-135, 10-2-150, 10-2-160, 10-2-161, 10-2-162, 10-2-164 through 10-2-167, 10-2-169, 10-2-180 through 10-2-189, 10-2-200 through 10-2-212, 10-2-250 through 10-2-253, 10-2-254, 10-2-256, and 12-11-34 through 12-11-39, inclusive, Code of Alabama, 1975.

**Section 193. LAWS NOT REPEALED.**

The provisions of this Act are cumulative and shall not be construed to repeal or supersede any laws not inconsistent

herewith.

Without limitation of the generality of the preceding sentence of this section, this Act shall not repeal or supersede Sections 10-5-1; 11-49-1; 10-5-2 through 10-5-14, both inclusive, or 10-2-270 through 10-2-275; or 10-6-1 through 10-6-4; or 10-2-230; 10-2-231; or 8-6-90 through 8-6-95; or 8-6-70 through 8-6-80; or 10-2-255; or 10-2-163, 10-2-21, 10-2-168; but nothing contained in this sentence shall be construed as implying that any law not specifically listed herein is or is not repealed or superseded by this Act.

#### **Section 194. EFFECTIVE DATE.**

This Act shall become effective at 12:01 a.m. on January 1, 1981.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-634

H. 173—Owens

#### **AN ACT**

To amend Sections 12-19-171, 12-19-172, 12-19-179, 32-5-313 and 36-21-67, Code of Alabama 1975, which sections relate to docket fees for traffic violations in circuit, district, and municipal courts; to eliminate the distinction between moving and non-moving traffic violations for docket fee purposes; to further provide a fee for the execution of alias writs; to further provide for a uniform docket fee in juvenile cases and to provide for its distribution; to repeal all laws and parts of laws in conflict herewith and to provide an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-19-171, Code of Alabama 1975, is amended to read as follows:

“Section 12-19-171. Amount of docket fees in juvenile and criminal cases in circuit and district courts generally; witness fees; fee for service of witness subpoenas.

(a) The following docket fees shall be collected for juvenile and criminal cases in the district court and the circuit court:

(1) District Court:

- a. Traffic infraction ..... \$22.50
- b. Execution of alias writ.....5.00
- c. Misdemeanor .....35.00

- d. Felony guilty plea .....77.00
- e. Preliminary hearing .....10.00
- f. Bond forfeiture .....15.00

(2) Circuit court:

- a. Execution of alias writ..... \$15.00
- b. Misdemeanor .....35.00
- c. Felony .....77.00
- d. Bond forfeiture .....15.00

(3) Docket fees for cases in the juvenile division of the district court or circuit court shall be assessed at \$25.00 to be distributed as docket fees for civil cases in the district court, except that the portion of the docket fee allocated to the state general fund shall be \$13.00 and \$5.00 shall be allocated to the county general fund. Uncollected court costs in juvenile cases may not be assessed as charges against the county.

(b) Witness fees shall be collected and distributed pursuant to law. Witness fees shall be in addition to docket fees.

(c) A fee of \$2.00 shall be collected for service and return of each witness subpoena. Witness subpoena fees shall be in addition to docket fees.”

**Section 2.** Section 12-19-172, Code of Alabama 1975, is amended to read as follows:

“Section 12-19-172. Amounts of docket fees in municipal ordinance cases in circuit and district courts.

(a) The following docket fees shall be collected for municipal ordinance cases in the district court:

- (1) Traffic infraction ..... \$22.50
- (2) Execution of alias writ .....5.00
- (3) Other ordinance violations.....35.00
- (4) Bond forfeiture .....15.00

(b) On appeals de novo to the circuit court, the docket fees in municipal ordinance cases shall be the same as those collected for misdemeanor cases.”

**Section 3.** Section 12-19-179, Code of Alabama 1975, is amended to read as follows:

"Section 12-19-179. Same—traffic infractions in district court.

(a) The following distribution shall be made of docket fees for traffic infractions in district court: \$1.00 to the police officers' annuity fund; \$2.00 to the fair trial tax fund; \$1.00 to the driver education fund; \$8.00 to the state general fund; \$3.00 to the county general fund; an arrest fee of \$5.00 to the state general fund or the state funds prescribed by law; except, that the arrest fee shall be paid into the county general fund in cases initiated by county law enforcement officers; and, as provided by law, \$2.50 to the district attorney fund or to the fund prescribed by law for district attorney fees.

(b) Fees for execution of alias writs from circuit and district courts shall be distributed as follows: writs issuing from district court, \$2.00 to the county general fund and \$3.00 to the state general fund; writs issuing from circuit court, \$5.00 to the county general fund and \$10.00 to the state general fund.

**Section 4.** Section 32-5-313, Code of Alabama 1975 is amended to read as follows:

"Section 32-5-313. Additional penalty for traffic infraction; driver education and training fund.

In addition to all other fines, fees, costs and punishments now prescribed by law there shall be imposed or assessed an additional penalty of \$1.00 upon conviction by any judge in any court of the state of any offense involving a traffic infraction; or upon conviction of a traffic infraction prescribed by any county or municipal ordinance.

All penalties collected under this section shall be forwarded by the officer of the court who collects the same to the state treasurer, within 30 days after the penalty or forfeiture is collected. All amounts so received shall be credited to a special fund to be designated the "driver education and training fund," and an amount equal to 90 percent thereof is hereby appropriated to the state department of education for the sole purpose of instituting and conducting a program of prelicensing driver education and training; the remaining 10 per cent is hereby appropriated to the state safety coordinating committee for payment of administrative expenses incurred in its program.

**Section 5.** Section 36-21-67, Code of Alabama 1975, is amended to read as follows:

"Section 36-21-67. Imposition of additional court costs in

certain criminal and quasi-criminal proceedings; remittance of proceeds to executive director of Alabama peace officers annuity and benefit fund.

In all criminal and quasi-criminal proceedings for the violation of laws of the state or municipal ordinances including violations of the state conservation laws or regulations which are tried in any court or tribunal in this state, wherein the defendant is adjudged guilty or pleads guilty or wherein a bond is forfeited and the result of the forfeiture is a final disposition of the case or wherein any penalty is imposed, there is hereby imposed an additional cost of court in the amount of \$1.00 for each traffic infraction, \$5.00 in each such proceeding where the offense constitutes a misdemeanor and/or a violation of a municipal ordinance other than traffic infractions and \$10.00 in each such proceeding where the offense constitutes a felony; provided, however, that there shall be no additional costs imposed for violations relating to parking of vehicles.

The amount of all such costs shall be remitted by the person or authority collecting the same to the executive director of the Alabama peace officers annuity and benefit fund on the tenth day of each month next succeeding that in which the cost is paid. It shall be the duty of the clerk or other authority collecting the said court costs to keep accurate records of the amounts due to the board for the benefit of the fund under this section."

**Section 6.** All laws and parts of laws in conflict herewith are hereby repealed.

**Section 7.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional such declaration shall not affect the part which remains.

**Section 8.** This Act shall become effective on the first day of the next month following passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-635

H. 242—Clark, Campbell

# AN ACT

To provide for the establishment of a fee to be collected from the proceeds of all

judicial sales; and to provide for the distribution of said fees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following fees shall be collected from the proceeds derived from any judicial sale: for the first three hundred dollars, two percent; from all over three hundred dollars, and not exceeding two thousand dollars, one and one-half percent; for all over two thousand dollars and not exceeding twenty thousand dollars, one percent; and for all over twenty thousand dollars, one-fourth of one percent.

**Section 2.** Such fees are to be collected from the proceeds of such sale prior to any other distribution and are in addition to any other fees or costs which may be authorized by law. Fees collected as herein prescribed shall be remitted to the state general fund.

**Section 3.** This act shall apply to any judicial sale made after the effective date of this act, provided the case was filed after January 15, 1977.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-636

H. 243—Clark, Campbell

### AN ACT

To amend Section 41-13-21, Code of Alabama 1975, which relates to the determination as to which state records are to be preserved, so as to provide further for said determination.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-13-21, Code of Alabama 1975, is hereby amended to read as follows:

“§41-13-21.



"The state records commission shall be charged with the responsibility of determining which state records shall be permanently preserved because of historical value, which state records may be destroyed or otherwise disposed of after they have been microfilmed and which state records may be destroyed or otherwise disposed of without microfilming. The commission may classify the different types of records accordingly.

"No state officer or agency head shall cause any state record to be destroyed or otherwise disposed of without first obtaining approval of the state records commission. Provided, however, that records of the courts within the unified judicial system may be disposed of in the manner and in accordance with such procedures as may be prescribed by rule of the supreme court, after consultation with the state records commission. Any such retention schedule prescribed by rule of the supreme court pertaining to records of the unified judicial system shall be deemed sufficient authorization for disposal and shall supersede any prior retention schedule with respect to such records, other provisions of the law to the contrary notwithstanding."

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-637

H. 473—Riddick

### AN ACT

To provide that the state salary payable to clerks and registers of the circuit court shall be increased by \$1,800.00 beginning on October 1, 1980; to amend Section 12-17-92, Code of Alabama 1975, which section relates to supplemental salaries of circuit court clerks, so as to eliminate the requirement that the counties maintain the salaries of circuit clerks at the same relationship which their salaries bore to salaries of the circuit judges on January 16, 1977; to provide that circuit clerks and registers shall be entitled to receive all future cost-of-living increases granted to state employees, generally; and to appropriate such funds as may be necessary to pay such increase.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is hereby declared to be the policy of the state legislature to provide an increase in the salary paid by the state to the circuit court clerks in order to compensate these judicial system officials for any diminution of their salaries that occurred when it

was determined that they were not eligible to receive the cost-of-living increase granted by the legislature to all state employees listed in the classified service of the state for fiscal year 1978-79, all pursuant to Act No. 728, H. 171, Regular Session 1978 (Acts 1978, p. 1053). Further, it is declared to be the policy of the state legislature that circuit clerks and registers shall, in the future, be entitled to any cost-of-living increase granted to other state employees, generally.

**Section 2.** Increase in state salary payable to clerks and registers of the circuit court; effect on eligibility for future cost-of-living increases.

Clerks of the circuit court and registers shall receive an \$1,800.00 increase in state salary beginning on October 1, 1980; provided that such increase shall in no way apply to or otherwise diminish any local supplement currently provided to any circuit court clerk or register pursuant to any general or local act; provided that the increase in salary granted under the provisions of this act shall not affect the eligibility of any circuit court clerk or register to receive any cost-of-living increase which has been granted since October 1, 1978, nor shall the increase in salary granted under this act affect the eligibility of any circuit court clerk or register to receive any cost-of-living increase which may be granted subsequent to the passage of this act; and specifically provided that circuit court clerks and registers shall be entitled to all future cost-of-living increases granted to state employees, whether limited to those listed in the classified service of the state or not, or to state employees, generally. Provided, further, that in no event shall the state salary of any register be increased by the provisions of this act when such state salary of any register currently exceeds the total state salary payable to a circuit clerk or that such salary would be caused to exceed the total salary payable to a circuit clerk.

**Section 3.** Amendment to Section 12-17-92, Code of Alabama 1975.

Section 12-17-92, Code of Alabama 1975, is hereby amended to read as follows:

“Section 12-17-92. Compensation of circuit clerks.

Each circuit clerk shall be compensated by the state at a salary established by law; provided, that any supplemental salary now provided to circuit clerks by their respective counties on the effective date of this Act shall not be diminished; provided, further, that any county may, pursuant to a local act already enacted or

hereafter enacted, pay a circuit clerk a supplemental salary from the general fund of such county in excess of any supplemental salary provided for by this section."

**Section 4.** The provisions of this act shall not apply to Act 77-323 unless approved by resolution adopted by the governing body of the county or counties affected.

**Section 5. Appropriation.**

There is hereby appropriated from the general fund, such additional sums as may be necessary to pay such salary increase herein provided for clerks and registers of the circuit court.

**Section 6. Severability Clause.** It is expressly provided that each section, clause, provision or portion of this Act shall be construed as inseparable and non-severable from all others, and in the event that any section, clause, provision or portion of this Act shall be held invalid or unconstitutional by any court of competent jurisdiction, the entire Act and each section, clause, provision or portion thereof shall be inoperative and have no effect.

**Section 7. General Repealer.**

All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 8. Effective date.**

This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-638

H. 1120—Starkey, Coburn

**AN ACT**

Relating to Lauderdale County; to provide for the establishment of fees by the county commission based upon, but not bound by, recommendations of the county board of health for public health services; to provide for the continuation of the present fee schedule for the 1980 fiscal year and to require the county governing body to readopt a fee schedule for each succeeding fiscal year; to provide that the first fee schedule shall also be the fee schedule for the 1980 fiscal year and to require the county governing body to readopt a fee schedule for each succeeding fiscal year.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The County board of health of Lauderdale County, which is a part of the Northwest Alabama Regional Health Department, is hereby authorized to recommend reasonable fees or charges to the governing body of said county and the governing body shall establish the actual amount of the fee, with or without regard to such recommendations, for the rendering of public health services within said county to members of the public. Such fees shall supplement, but not replace, local, state, and federal appropriations.

**Section 2.** The governing body of Lauderdale County shall promulgate and fix a reasonable schedule of fees to be charged and collected from, or on behalf of, persons receiving public health services, and the amount of such fees shall include charges for personal services, inspections, and the expenses intendant upon said services such as the expenses of necessary drugs, supplies, travel, and the cost of personnel time. Restaurant inspections and food handlers examinations are specifically excluded from charges. The present fee schedule shall remain in effect until the end of the 1980 fiscal year. The county governing body shall adopt a new fee schedule for each succeeding fiscal year. Said new fee schedule may be the same or different from the schedule of the preceding fiscal year. The first fee schedule shall remain in effect until the end of the 1980 fiscal year. The county governing body shall adopt a new fee schedule for each succeeding fiscal year. Said new fee schedule may be the same or different from the schedule of the preceding fiscal year. Provided, however, that no fee shall be collected after the beginning of the fiscal year, unless the county governing body has acted on the new fee schedule.

**Section 3.** All fees and receipts collected shall be paid over to the Regional Health Officer of the Northwest Alabama Regional Health Department and deposited in a bank and shall be expended for the support, maintenance, and operation of the public health services in said county.

**Section 4.** Funds collected under this act may be utilized as matching funds from other available sources.

**Section 5.** Services will not be denied any indigent person.

**Section 6.** In case of grievance, the aggrieved party may petition the County Health Officer in writing for an informal hearing. If satisfaction is not reached, the aggrieved party may then petition the Chairman of the County Board of Health in writing for a formal hearing before the County Board of Health.

**Section 7.** The county board of health shall not have authority

to prohibit the installment or turning on of electrical services by a public utility to buildings based on the failure of the sewage system or septic tank to meet health regulations.

**Section 8.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 10.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, and shall be in effect through June 30, 1980, after which time this Act shall be repealed.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-639

H. 164—Grouby, Owens, Edwards

### AN ACT

To re-open the Teachers' and Employees' Retirement Systems of Alabama for non-membership service and certain military service; to provide that as a prerequisite to obtaining such credit, said members must be active and contributing members of the Employees' Retirement System of Alabama or the Teachers' Retirement System of Alabama; and to provide that this Act shall take effect October 1, 1980, and to provide for its termination.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Whenever used in this Act, all words and phrases defined in Code of Alabama 1975, Section 36-27-1, shall have the same meanings ascribed to them in such section, unless the context clearly indicates that a different meaning is intended.

**Section 2.** Any active and contributing member of the Employees' Retirement System of Alabama or the Teachers' Retirement System of Alabama, who is an active member of either system, and who has rendered eligible service to any employer covered under with system, may hereby claim and purchase credit for any such prior service as an employee of any such employer. Any active and contributing member of the Employees' Retirement System of Alabama or the Teachers' Retirement System of Alabama, who is an active member of either system, may claim and purchase up to four years' credit for United States military service.

**Section 3.** Any member eligible to claim and purchase credit

for service under Section 2 hereof, shall be awarded such credit under the Employees' Retirement System of Alabama or the Teachers' Retirement System of Alabama provided he shall pay to the Secretary Treasurer of his respective Retirement System prior to said member's date of retirement a sum equal to a percentage of his current annual earnable compensation; the applicable percentage of his current annual earnable compensation shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation.

**Section 4.** The provisions granted under this Act to re-open the Retirement Systems shall terminate October 1, 1981, and no one shall be eligible to utilize any of the options granted herein if not fully exercised and paid prior to October 1, 1981.

**Section 5.** The provisions of this Act are cumulative and shall not be construed to repeal or supersede any laws or parts of laws not directly inconsistent herewith.

**Section 6.** This Act shall take effect October 1, 1980.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-640

H. 457—Smith (C), Whatley

### AN ACT

To amend Sections 12-16-73, 12-21-180 and 12-21-246, Code of Alabama 1975, relating to executing and service of process, to provide for executing and service of process, in certain instances, by mail.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-16-73, Code of Alabama 1975, is hereby amended to read as follows:

“§12-16-73.

“(a) Every order to summon jurors, except as otherwise provided in this article, shall be executed by the sheriff by either of the following methods at the election of the sheriff:

“(1) By giving personal notice to every such person or by leaving a written notice at the place of residence of the summoned juror with some family member of the juror or with some person residing at the same residence, at least two days before the day appointed for the service of the juror in court;

“(2) by placing a written notice to a person named in the order to summon jurors in the United States mail, first class, postage prepaid, and addressed to the residence of the person summoned; the envelope in which such notice is mailed shall indicate the return address of the sheriff and shall bear a proper notice that if it cannot be delivered at the indicated address it shall be returned to the sheriff. Such notice must be deposited in the United States mail not less than fifteen days before the day appointed for the service of the juror in court. If such notice shall not be returned to the sheriff, the mailed notice shall be considered to be legal service. If any such mailed notice shall be returned to the sheriff more than three days before the day appointed for the service of the juror in court, then such notice may be served in the manner provided in subparagraph (a) (1) of this section. Any juror whose mailed notice shall be returned to the sheriff three days or less before the day appointed for the service of the juror in court shall be reported by the sheriff as ‘Not Found.’

“(b) Orders to summon jurors instanter may not be served by United States mail but shall be served in the manner provided in subparagraph (a) (1) of this section.

“(c) The order to summon jurors shall be returned to the clerk of the court whence it issued, with the proper return thereon, showing the manner of service by the sheriff, on or before the day appointed for appearance of the jurors.”

**Section 2.** Section 12-21-180, Code of Alabama 1975, is hereby amended to read as follows:

“§12-21-180.

“(a) At the request of any party to a pending case, or the attorney of a party, the clerk of the court must issue subpoenas for witnesses, whose addresses shall be given by the person requesting the subpoena, specifying therein the time and place for their appearance, the title of the case and the party at whose instance the witness is summoned and commanding the witness to appear in conformity therewith and give testimony.

“(b) No subpoena shall issue for a witness residing more than 100 miles from the place of trial, computed by the route usually traveled, unless the person requesting the subpoena makes affidavit that the personal attendance of the witness is necessary to a proper decision of the case and that the deposition of the witness would be insufficient for that purpose, and the fact that such affidavit has been made must be endorsed by the clerk upon the subpoena.

“(c) A subpoena issued under this section shall be directed ‘To any sheriff of the state of Alabama’ and, unless the person requesting the subpoena directs that it be personally served as provided in subparagraph (1) of this paragraph, at the election of the sheriff, the subpoena shall be served by either of the following methods:

“(1) By serving the subpoena personally on the witness or by leaving a copy at the place of residence of the witness; or,

“(2) in cases or proceedings involving misdemeanors, if any such subpoena is requested more than ten days before the date the witness is required to appear, the subpoena may be served by placing a copy of such in the United States mail, first class, postage prepaid, addressed to the witness at the address given by the person requesting the subpoena. The envelope in which such subpoena is mailed shall indicate the return address of the sheriff and shall bear a proper notice that if it cannot be delivered at the indicated address it shall be returned to the sheriff. If the mailed subpoena is returned to the sheriff more than three days before the date the witness is required to appear, the sheriff may serve the subpoena in the manner provided in subparagraph (1) above. Any witness whose mailed subpoena shall be returned to the sheriff three days or less before the date the witness is required to appear shall be reported by the sheriff ‘Not Found.’ If the subpoena is served by mail, the date of service shall be the date upon which the sheriff deposits such in the United States mail.

“(d) The sheriff shall make return by endorsing on the subpoena the date and manner of service and such return shall be prima facie proof of service.

“(e) A witness may acknowledge service of a subpoena by endorsing acceptance thereof on the subpoena, in writing, in which event service by the sheriff shall not be required.

“(f) All subpoenas issued while the court is in session commanding the appearance of a witness in a case or proceeding then being heard or to be heard during the term of the court then in session shall be served in the manner provided in subparagraph (c) (1) of this section, unless, on the motion of either party or upon the court’s own motion, service by mail under subparagraph (c) (2) shall be directed by the court.”

**Section 3.** Section 12-21-246, Code of Alabama 1975, is hereby amended to read as follows:

“§12-21-246.



“(a) In criminal cases, at the request of the state, or the defendant or the defendant’s attorney, the clerk of the court must issue subpoenas for witnesses whose address shall be given by the person requesting the subpoena, specifying therein the time and place for their appearance, the title of the case and at whose instance the witness is summoned, and commanding the witness to appear in conformity therewith and give testimony.

“(b) No subpoena shall issue for a witness residing more than 100 miles from the place of trial, computed by the route usually traveled, unless the person requesting the subpoena makes affidavit that the personal attendance of the witness is necessary to a proper decision of the case and that the deposition of the witness would be insufficient for that purpose, and the fact that such affidavit has been made must be endorsed by the clerk upon the subpoena.

“(c) A subpoena issued under this section shall be directed ‘To any sheriff of the state of Alabama’ and, unless the person requesting the subpoena directs that it be personally served as provided in subparagraph (1) of this paragraph, at the election of the sheriff, the subpoena shall be served by either of the following methods:

“(1) By serving the subpoena personally on the witness or by leaving a copy at the place of residence of the witness; or,

“(2) in cases or proceedings involving misdemeanors, if any such subpoena is requested more than ten days before the date the witness is required to appear, the subpoena may be served by placing a copy of such in the United States mail, first class, postage prepaid, addressed to the witness at the address given by the person requesting the subpoena. The envelope in which such subpoena is mailed shall indicate the return address of the sheriff and shall bear a proper notice that if it cannot be delivered at the indicated address it shall be returned to the sheriff. If the mailed subpoena is returned to the sheriff more than three days before the date the witness is required to appear, the sheriff may serve the subpoena in the manner provided in subparagraph (1) above. Any witness whose mailed subpoena shall be returned to the sheriff three days or less before the date the witness is required to appear shall be reported by the sheriff ‘Not Found.’ If the subpoena is served by mail, the date of service shall be the date upon which the sheriff deposits such in the United States mail.

“(d) The sheriff shall make return by endorsing on the subpoena the date and manner of service and such return shall be prima facie proof of service.

“(e) A witness may acknowledge service of a subpoena, by endorsing acceptance thereof on the subpoena, in writing, in which event service by the sheriff shall not be required.

“(f) All subpoenas issued while the court is in session commanding the appearance of a witness in a case or proceeding then being heard or to be heard during the term of the court then in session shall be served in the manner provided in subparagraph (c) (1) of this section, unless, on the motion of either party or upon the court’s own motion, service by mail under subparagraph (c) (2) shall be directed by the court.”

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** The provisions of this act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-641

H. 118—Blake

### AN ACT

To amend the title and section 1 of Act No. 568, H. 1333, 1977 Regular Session (Acts 1977, p. 757), which relates to arrest powers of the investigator of the district attorney in the thirtieth judicial circuit, so as to provide further for such powers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The title of Act No. 568, H. 1333, 1977 Regular Session (Acts 1977, p. 757) is hereby amended to read as follows:

“An Act To provide that the Investigator of the district attorney of the thirtieth judicial circuit shall have arrest powers in Blount County and St. Clair County.”

**Section 2.** Section 1 of Act No. 568, H. 1333, 1977 Regular Session (Acts 1977, p. 757) is hereby amended to read as follows:

“Section 1. The lawfully appointed investigator of the district attorney for the thirtieth judicial circuit shall have the same arrest authority and powers vested in deputy sheriffs of Blount County and St. Clair County while such investigator is performing authorized duties within Blount County and St. Clair County.”

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-642

H. 332—Riddick

### AN ACT

To amend Section 22-21-24, Code of Alabama, 1975, by increasing the annual fee for a hospital license and providing further for the accreditation and licensing of hospitals.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 22-21-24, Code of Alabama, 1975, is hereby amended to read as follows:

“§22-21-24.

“The application for a license to operate a hospital shall be accompanied by a standard fee of \$100.00, plus a fee of \$3.00 per bed for each bed to be licensed in accordance with regulations promulgated under section 22-21-28. Increase in a hospital's bed capacity during the calendar year is assessed at the standard fee of \$100.00 plus \$3.00 each for the net gain in beds. No fee shall be refunded. All fees received by the state board of health under the provision of this article shall be paid into the state treasury to the credit of the state board of health and shall be used for carrying out the provisions of this article. All licenses issued under this article shall expire on December 31 of the year in which it was issued. All licenses shall be on a form prescribed by said department, shall not be transferable or assignable, shall be issued only for the premises named in the application, shall be posted in a conspicuous place on the licensed premises and may be renewed from year to year upon application, investigation and payment of the required license fee, as in the case of procurement of the original license. All fees collected under this article are hereby appropriated for expenditure by the state health department. All hospitals which are accredited by the joint commission on accreditation of hospitals shall be deemed by the State Health Department to be licensable without further inspection or survey by the personnel of the State Department of Health. Further accreditation by the joint commission on accreditation of hospitals shall in no way relieve that hospital of the responsibility of applying for licensure and

remitting the appropriate licensure fee as specified in this article.”

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-643

H. 465—Smith (J)

### AN ACT

Relating to Madison County; to give the County Commission certain powers and authority in regard to performing road related services upon private property for a fee and selling road construction materials to churches, persons, firms or corporations; setting the conditions under which such work can be done and road construction materials sold; and establishing the procedure governing work on private property or sales of said materials to churches, individuals, firms or corporations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Madison County Commission is hereby authorized and empowered, under the conditions and limitations set forth herein, within Madison County, to go upon private property and perform road related service, for a fee, for churches, individuals, firms or corporations and to sell road construction materials to churches, individuals, firms or corporations.

For the purposes of this Act, the words “road related services” shall mean grading, scraping, packing, paving, tarring, graveling, cherting, or like services, and services to aid or improve drainage, grass mowing near public roads, and assistance or aid where equipment has been turned over or become stuck.

For the purposes of this Act, the words “road construction materials” shall mean asphalt, gravel, chert, sand, dirt, tar or like materials.

**Section 2.** It is the intent of this bill to make available to Madison County citizens the aforementioned services only when such road related services and road building materials are not available to them at a reasonable cost from private enterprise. Upon the enactment of this bill, and annually thereafter, the

Madison County Commission shall examine the availability of work, services and material from private enterprise in the various areas of Madison County and shall determine a cost for providing said road related services and road construction material. The Madison County Commission shall enter upon the minutes the results of such examination, and the pricing cost for the year, with necessary allowances made for price changes during the year. The Madison County Commission shall then promulgate a written policy which will govern the performance by county crews and equipment of said road related services and the sale of such road construction material by the county. The policy shall include: a description of the road related services which will be performed and the road construction materials to be sold; a provision to include private enterprise to service those needs found in its previous examination; and the limitation upon the areas in which such road related services will be performed and in which road construction materials will be sold to those areas in which such work, services or materials is not reasonably available at a reasonable cost from private enterprise. It is the intent of the legislature that the county shall in no way compete unfairly with the private sector and that such road related services or road construction materials will be made available only to those citizens of Madison County where such road related services or road construction material is not available from private enterprise at a reasonable cost. Moreover, the policy shall include provisions to insure that no subsidy will be allowed to those individuals, firms or corporations contracting with the county and that all cost, either direct or indirect, shall be borne by those entities contracting with the county. Finally, the policy shall include the provisions of a full financial accounting to support such requirements and said accounting shall be subject to public inspection. In promulgating said policy and in promulgating any change to said policy, the Madison County Commission shall, after publishing notice in a newspaper of general circulation, hold a public hearing on the matter; provided, however, an increase in pricing to cover any increase in the costs of materials and labor shall not require a public hearing. The written policy and pricing cost adopted by the Madison County Commission shall be published annually in a newspaper of general circulation in Madison County in the type normally used for news stories and shall state that the pricing cost will be discussed, in a public hearing forum, at a specified regularly scheduled meeting of the Madison County Commission, at the request of any interested citizen; provided, however, that said notice appear at least one week prior to said meeting.

**Section 3.** In no case may county personnel or equipment be

permitted to perform road related services on private property where a present public need exists for said county equipment and personnel. Moreover, the personnel and equipment necessary to perform such work on private property shall not be permitted to do so unless the Madison County Commission is to be properly compensated for said road related services performed and for the road construction materials used or sold. In determining proper compensation for road related services performed and for road construction materials used or sold, all indirect costs including but not limited to overhead, management and depreciation shall be included. All moneys derived from payments to the Madison County Commission for such work or services performed and such materials used or sold shall be expended for those purposes, and no other, set forth in Amendment Number 354 to the Constitution of Alabama of 1901 for moneys derived from the sources set out therein.

**Section 4.** Before any road related services are performed on private property or road construction material is sold to churches, individuals, firms or corporations, a written contract must be signed by the party for whom the said service is to be performed or to whom the material is to be sold stating the work to be done or material sold, the amount to be paid for the road related service or road construction material or the rate by which the amount be paid for such work or material will be computed. The road related services performed must be paid for at the time it is completed and any road construction material is delivered must be paid for at the time the material is delivered. All such contracts shall be kept on file in the office of the Madison County Commission for a period of not less than four years and such contracts shall be public writings of this State, as such term is used in Code of Alabama of 1975, Sections 36-12-40 through 36-12-42. The name of each church, individual, firm or corporation for whom the road related services are performed or to whom material is delivered shall be entered upon the permanent minutes of the Madison County Commission at its next regular meeting following the completion of the work or the delivery of the material, along with a description of the work performed or road construction material delivered and a statement of the price paid to the county for the work performed or material sold.

**Section 5.** The Madison County Commission shall not perform work on private property or sell materials to any church, individual, firm or corporation within any twelve (12) month period in excess of a total amount of One Thousand Dollars (\$1,000.00).

**Section 6.** All laws or parts of laws which conflict with this Act are hereby repealed but nothing herein contained repeals,

amends or modifies in any way the provisions of Code of Alabama of 1975, Section 36-10-8, Section 36-10-14, and Sections 36-25-1 through 36-25-30.

**Section 7.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-644

H. 550—Waggoner, Amari, Bennett

AN ACT

To provide a supplemental salary for the Circuit Clerk serving the Tenth Judicial Circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to any salary paid by the State, the Circuit Clerk of the Tenth Judicial Circuit shall be paid a supplemental salary from the county at a rate of Eight Thousand One Hundred Dollars (\$8,100) per annum. The County Commission shall pay such supplemental salary in equal biweekly installments from the general fund of the county.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective upon its adoption and approval by the Governor or upon its otherwise becoming law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-645

H. 697—Adams (H), Willis, Drinkard,  
Harvey, Ford, Coburn, Riddick,  
Carter, Adams (C), Whatley,  
Ward

## AN ACT

To amend Sections 40-13-2, 40-13-5 and 40-13-6 of the Code of Alabama 1975 relating to the levy and rate and deposit, disbursement and refund of the proceeds from certain coal severance taxes so as to provide that such proceeds that were formerly refunded shall be credited to the Treasury of the State General Fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 40-13-2, 40-13-5 and 40-13-6 of the Code of Alabama 1975 are hereby amended to read as follows:

“Section 40-13-2. There is hereby levied, in addition to all other taxes imposed by law, an excise and privilege tax on every person severing coal within Alabama. This tax shall be paid to the commissioner by every producer who severs coal within Alabama at the rate of \$.135 per ton of coal severed.”

“Section 40-13-5. (a) The entire proceeds from the privilege or license tax levied by section 40-13-2 shall be deposited in the state treasury to the credit of the Alabama state docks bulk handling facility trust fund. The proceeds from the special handling charge provided for by Act No. 2306 of the 1971 regular session of the legislature shall be deposited in the state treasury to the credit of a fund to be created and known as the special handling charge fund.

“(b) The amounts deposited into such funds shall be disbursed and are hereby appropriated to the extent necessary for such purpose, to pay at their respective maturities, or to redeem under the terms thereof, principal of and interest on any revenue bonds that may at any time be issued pursuant to authorization and any statute adopted at the 1971 regular session of the Alabama legislature or at any other legislative session prior thereto for the purpose of constructing any seaport facility; provided, that amounts deposited into the special handling charge fund shall be first expended to the extent necessary for such purposes before any amounts are drawn from the Alabama state docks bulk handling facility trust fund.

“(c) From the balance remaining in the special handling charge fund during each fiscal year there is hereby appropriated and there shall be paid by the state treasurer into a reserve fund or funds established for the bonds until there is on deposit an amount equal to the maximum principal and interest becoming due on the bonds in any one year; to the extent that the balance remaining in the special handling charge fund is inadequate to fully fund the reserve fund, the reserve fund shall be funded from the Alabama state docks bulk handling facility trust fund.

“(d) From the balance thereafter remaining in the Alabama



state docks bulk handling facility trust fund during each fiscal year a credit transfer shall be made as provided by section 40-13-6.

“(e) The balance, if any, in the special handling charge fund is hereby appropriated and shall be used by the state treasurer to pay, at his discretion, principal and interest on the bonds in future years or to redeem portions of the bonds.

“Section 40-13-6. In each fiscal year when the funds then on deposit in the special fund or funds created for retirement of the bonds equal the amount needed to pay all the principal and interest becoming payable on the bonds within the succeeding 12 months and the funds then on deposit in the reserve fund or funds created for the bonds equal the maximum principal and interest becoming due on the bonds in any one year, the severance tax proceeds remaining in the Alabama state docks bulk handling facility trust fund shall be credited to the Treasury of the State General Fund.

“The director of the Alabama state docks department shall file with the commissioner upon forms prescribed by him and at the time so designated by the commissioner a report stating the amount of coal shipped through the seaport facility, by whom it was shipped, the date of each shipment and such further information as the commissioner reasonably may require for the proper enforcement of the provisions of this section.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-646

H. 744—Bowling

### AN ACT

Relating to Winston County; to provide that the minimum salary of the chief clerks for the probate judge, sheriff, tax assessor and tax collector be set at \$750.00 per month to be paid in the same manner that such clerks are now being paid; to allow the county commission to authorize cost of living raises for such clerks; to give this act retroactive effect to October 1, 1979.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The minimum compensation of the chief clerks of the probate judge, sheriff, tax assessor and tax collector of Winston County shall be \$750.00 per month. Such compensation shall be

paid in the same manner as the salary of each of such clerks is being paid at the time of the enactment of this act.

**Section 2.** The county commission may at its discretion authorize cost of living increases to the salaries of each of such clerks.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall have retroactive effect to October 1, 1979.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-647

H. 925—Starkey, Coburn, Greer

## AN ACT

To authorize the incorporation with respect to the several counties and municipalites in this State of port authorities as non-profit public corporations for the purpose of developing any property on or near any navigable river in this State for recreational, transportation, agricultural, industrial and commercial purposes; to provide the method of organizing such corporations, the management thereof and the amendments of its certificate of incorporation; to specify the powers of such corporations; to authorize such corporations to issue bonds or securities payable solely from the revenues and receipts derived from the operation, lease or sale of its properties and to secure the same by pledges of such revenues and receipts, by mortgages on such properties and by indentures and other agreements; to authorize the refunding of such bonds and securities; to provide that all bonds of such corporations shall be negotiable instruments; to provide for remedies in the event of default of such bonds, securities or indentures; to exempt from taxation such corporations, their properties, their bonds and income therefrom; to provide for the filing of certificates of incorporation and amendments thereto, deeds to such corporations, deeds and leases by such corporations and their indentures and certificates of dissolution without the payment of any tax; to exempt such corporations from usury and interest laws; to exempt such corporations from competitive bid laws; to provide for the disposition of any earnings of the corporation; to provide bonds of such corporations shall be legal investments for executors, administrators, trustees and other fiduciaries and for saving banks and insurance companies; to provide that upon dissolution of such corporations all funds held by them and title to their properties shall vest in the municipality and the county with respect to which they are organized; to declare that this Act shall be cumulative and not restrictive of powers otherwise provided by law; to provide for the correction of errors or omissions in incorporation; and to provide for filings with the Alabama Securities Commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Definitions.** Whenever used in this Act, unless the context plainly indicates otherwise, the present term shall include the future term, the singular shall include the plural, the plural shall include the singular, the masculine shall include the feminine, and the following words and phrases shall have the following meanings respectively ascribed to them by this Section:

(a) “authority” means a non-profit public corporation organized pursuant to the provisions of this Act.

(b) “authorizing subdivision” means any county or municipality to which application has been made for authority to incorporate an authority under this Act.

(c) “board” means the board of directors of an authority.

(d) “director” means a member of the board of directors of an authority.

(e) “county” means any county in this state.

(f) “governing body” means, with respect to a county, the county commission and, with respect to a municipality, the council, commission or other governing body of such municipality.

(g) “municipality” means any incorporated city or town in this state.

(h) “indenture” means any mortgage, indenture of mortgage, deed of trust, trust agreement or trust indenture executed by an authority as security for its bonds.

(i) “project” means any land, any interest in land, any building, structure or improvement thereon, any machinery, equipment, furniture, furnishings, facility or personal property, or any of them, which, in the judgment of the board of an authority is suitable for use by the authority in carrying out its powers and the functions authorized by this Act, including, without limitation, ports, docks, and all kinds of dock facilities, water and rail terminals and facilities, wharves, piers, berths, quays, loading and unloading facilities and other related facilities, marinas, boating facilities, facilities for aquatic entertainment and sports, facilities for fishing, pavillions, auditoriums, motels, restaurants, coffee shops, stores, warehouses, factories, manufacturing plants, industrial plants, office and other commercial buildings and facilities, or any of them.

(j) “waterfront property” means any property on or near any navigable river in this state.

**Section 2.** Legislative intent: construction of the Act generally.

(a) It is the intention of the Legislature by the passage of this Act to authorize the incorporation of authorities as non-profit public corporations to develop waterfront property for recreational, transportation, agricultural, industrial and commercial purposes by financing, acquiring, enlarging, improving, replacing, owning, operating, selling, leasing and disposing of a project or projects or any part thereof. It is the further intent of the Legislature by the passage of this Act to vest an authority with all powers that may be necessary to enable it to accomplish such purposes.

(b) This Act shall be liberally construed in conformity with the said intention.

**Section 3.** Incorporation of authorities. Whenever any number of natural persons not less than three shall file with the governing body of a county and with the governing body of any municipality located, in whole or in part, in such county, an application in writing for authority to incorporate a public corporation under the provisions of this Act and shall attach to such application a proposed form of certificate of incorporation for such corporation, said governing bodies shall each proceed to consider such application. If said governing bodies shall each by appropriate resolution duly adopted, find and determine that each applicant was a duly qualified elector of and taxpayer in the county in which the application was filed and that it is wise, expedient, necessary or advisable that the authority be formed, shall authorize the persons making such application to proceed to form such authority and shall approve the form of certificate of incorporation proposed to be used in organizing such authority, then the persons making such application shall execute, acknowledge and file a certificate of incorporation for the authority as provided in Section 4 hereof.

No authority shall be formed unless such application shall have first been filed as hereinabove provided and the governing bodies of the authorizing subdivisions shall each have adopted resolutions as provided in this section. Provided, however, said authority must also be approved by the Alabama State Docks Department.

**Section 4.** Certificate of Incorporation and its contents: execution and acknowledgements.

(a) The certificate of incorporation shall set forth:

(1) The names and resident addresses of the applicants together with a recital that each of them is a duly qualified elector

of and taxpayer in the county;

(2) The name of the authority which shall be \_\_\_\_\_ Port Authority (the blank spaces to be filled in with the names of the authorizing subdivisions if such name shall be available for use by the authority, and if not available then the incorporators shall designate some other similar name that is available);

(3) A recital that permission to organize the authority has been granted by resolution duly adopted by the governing body of each authorizing subdivision and the Alabama State Docks Department and the respective dates of adoption of said resolutions;

(4) The location of the principal office of the authority (which shall be in the municipality) and its post office address;

(5) A statement that the authority is organized for the purposes set forth in this Act with all the powers and authorities specified in this Act.

(6) The geographical boundaries of the authority's jurisdiction, which shall be situated within the boundaries of the county which is an authorizing subdivision and extend along the banks of a navigable river and inland for a distance of not more than three miles from said river.

(7) The period, if any, for the duration of the authority (if the duration is to be perpetual that fact shall be so stated); and

(8) Any other matter which the applicants may choose to insert therein which shall not be inconsistent with this Act or with the laws of the State of Alabama;

(b) The certificate of incorporation shall be subscribed and acknowledged by each of the applicants before an officer or officers authorized by the laws of the State of Alabama to take acknowledgments to deeds.

**Section 5.** Same — filing with Probate Judge; examination, approval and recordation by Probate Judge. When executed and acknowledged in conformity with Section 4 hereof, the certificate of incorporation shall be filed with the judge of probate of the county which is an authorizing subdivision. The judge of probate shall thereupon examine the certificate of incorporation and, if he finds that the recitals contained therein are correct, that the requirements of Section 4 have been complied with, and that the name is not identical with or so nearly similar to that of another corporation already in existence in this state so as to lead to confusion and uncertainty, he shall approve the certificate of incorporation and record it in an appropriate book or record in his

office. The recording of the certificate of incorporation shall be conclusive evidence that the required findings and approvals have been made.

When such certificate has been so made, approved and filed, the applicants shall constitute a public corporation under the name set forth in the certificate of incorporation.

**Section 6.** Same — amendment. The certificate of incorporation may at any time and from time to time be amended so as to make any changes therein and add any provisions thereto which might have been included in the certificate of incorporation in the first instance.

Such an amendment shall be effected in the following manner: the board of the authority shall file with the governing body of each authorizing subdivision a resolution seeking permission to amend the certificate of incorporation, specifying in such resolution the amendment proposed to be made. The governing body of each authorizing subdivision shall consider such resolution and, if each of them shall be appropriate resolution duly find and determine that it is wise, expedient, necessary or advisable that the proposed amendment be made and shall authorize the same to be made and shall approve the form of the proposed amendment, then the authority shall cause to be executed an instrument embodying the proposed amendment and shall file the same with the judge of probate of the county in which the certificate of incorporation was originally filed. The proposed amendment shall be subscribed and acknowledged by its President or Vice President before an officer authorized by the laws of Alabama to take acknowledgments to deeds. Such judge of probate shall thereupon examine the proposed amendment and, if he finds that the requirements of this Section have been complied with and the proposed amendment is within the scope of what might be included in an original certificate of incorporation, he shall approve the amendment and record it in an appropriate book in his office. When such amendment has been so made, approved and filed, it shall thereupon become effective and the certificate of incorporation shall thereupon be amended to the extent provided in the amendment. No certificate of incorporation shall be amended except in the manner provided in this Section. The recording of the amendment shall be conclusive evidence that the requisite findings and approvals have been made.

**Section 7.** Directors. An authority shall have a board of directors in which all of the powers of the authority shall be vested, and which shall consist of five members. Two directors shall be elected by the governing body of the county which is an authorizing subdivision, two directors shall be elected by the governing body of

the municipality which is an authorizing subdivision, and one director shall be elected jointly by the governing bodies of both such county and such municipality. The directors shall be so elected that they shall hold office for staggered terms. The first term of office of one of the two directors elected by the governing body of the county shall be for two years and the first term of office of the other director elected by said governing body shall be for four years. The first term of office of one of the two directors elected by the governing body of the municipality shall be for one year and the first term of office of the other director elected by said governing body shall be for three years. The first term of office of the director elected jointly by the governing bodies of the county and the municipality shall be for five years. Thereafter, the term of office of each director shall be five years. If at the expiration of any term of office of any director a successor thereto shall not have been elected, then the director whose term of office shall have expired shall continue to hold office until a successor shall be so elected. Each director elected by the governing body of one of the authorizing subdivisions shall be a resident of the authorizing subdivision by whose governing body he was elected, but the director elected jointly by the governing body of both authorizing subdivisions need only be a resident of the county. If a director resigns, dies, or becomes incapable or ineligible to act as director, a successor to serve the unexpired period of his term shall be elected by the governing body or bodies by which the director whose unexpired term he is to fill was elected. Directors shall be eligible for re-election by the governing body or bodies by which they were initially elected. No director shall be an officer or employee of the state or of an authorizing subdivision.

(b) A majority of the members of the board shall constitute a quorum for the transaction of business, but any meeting of such board may be adjourned from time to time by a majority of the directors present or may be so adjourned by a single director if such director is the only director present at such meeting. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and duties of the authority. Any matter in which the board is authorized to act may be acted upon at a regular, special or called meeting. At the request of any director, the vote on any question before the board shall be taken by ayes and nays entered upon the record. All proceedings of the board shall be reduced to writing by the secretary of the authority and recorded in a well-bound book which shall open for inspection by each director and the public at all reasonable times. Copies of such proceedings when certified by the secretary of an authority under its seal shall be received in all courts as evidence of the matters and things

therein certified. Directors and officers of an authority shall serve without compensation, except that they may be reimbursed for actual expenses incurred in the performance of their duties. Any director may be impeached and removed from office in the manner and on the same grounds provided for in Section 175 of the Constitution of Alabama of 1901, and the general laws of the State for impeachment and removal of officers mentioned in said Section 175. An authority shall make to its outstanding subdivisions an annual report of its activities and of its plans for the future, which report shall include a financial operating statement and balance sheet prepared and certified by the Examiner of Public Accounts for the State of Alabama or by a certified public accountant.

**Section 8. Officers.** The officers of an authority shall consist of a president, a vice president, a secretary, a treasurer, and such other officers as the board may determine. The office of secretary and treasurer may be held by the same person. All officers shall be elected by the board and shall be members of the board.

**Section 9. Powers.**

(a) An authority organized and existing under this Act shall have the following powers, together with all powers incident thereto or necessary for the performance of those stated herein:

(i) To adopt by-laws for the regulation of its affairs and the conduct of its business;

(ii) To adopt an official seal and alter the same at pleasure;

(iii) To maintain a principal office in the municipality which is an authorizing subdivision and sub-offices at such other place or places within the county which is an authorizing subdivision as its board may designate;

(iv) To sue and be sued in its own name, excepting actions in tort against the authority;

(v) To acquire, whether by purchase, construction, exchange, gift, lease or otherwise and to improve, equip and furnish and to own and maintain one or more projects or parts thereof, including all real and personal properties and interests therein which its board may deem necessary in connection therewith, regardless of whether or not any such project or projects shall then be in existence;

(vi) To acquire, whether by purchase, construction, exchange, gift or otherwise and to improve rights of way, streets, approaches, roads, railroads lines, interests in land, including the



fee simple title to real property and riparian rights necessary or useful and convenient in gaining access, entry, or approach to waterways, whether or not such easements, rights of way, streams, approaches, roads, railroads lines, interests in land and riparian rights lead to property owned or controlled by the authority;

(vii) To acquire, receive, take, hold, whether by purchase, gift, lease, devise or otherwise, property of every description, whether real, personal or mixed, and to manage the same and to develop any undeveloped property owned, leased or controlled by it;

(viii) To sell and convey, or grant options for such purpose, any or all of its projects or properties, whenever its board shall find such action to be in furtherance of the purposes for which the authority was organized;

(ix) To exchange or donate any or all of its projects or properties whenever its board shall find such action to be in furtherance of the purposes for which an authority was organized;

(x) To execute such contracts or instruments and to take such action as may be necessary or convenient to carry out the purposes of this Act or to exercise any power or authority granted herein;

(xi) To lease or let any project or any part thereof to such tenant or tenants for such term or terms at such compensation or rentals and subject to such provisions, limitations and conditions and its board may approve;

(xii) To operate a project or projects or parts thereof other than factories, manufacturing plants and industrial plants;

(xiii) To furnish food, lodging, shelter, lawful drinks, confections, reading matter, oil, gas, motor fuels, watercraft, motor and watercraft parts, equipment and the services of mechanics, instructors and repairmen for reward or compensation;

(xiv) To charge fees for admission to any of its properties;

(xv) To borrow money for the purpose of carrying out any of its powers and to issue its bonds or other securities in evidence thereof, including bond anticipation notes;

(xvi) To assign and pledge any revenues received by an authority from the lease, sale or operation of any or all of its projects or any part of parts thereof as security for the payment of the principal of and interest and premium, if any, on any bonds or other securities and the performance of any agreements made in connection therewith, whether then owned or thereafter acquired;

(xvii) To appoint, employ, contract with and provide for

compensation for such employees and agents, including engineers, architects, attorneys, consultants, fiscal advisors, and such other employees or agents as the business of the corporation may require, including the power to fix working conditions by general rules and other conditions of employment, and at its option to provide a system of disability payments, retirement compensation and pension or any of them and to hire and fire servants, agents and employees at will;

(xviii) To make and execute contracts and other instruments necessary to exercise the powers of the authority;

(xix) To fix, establish, collect and alter landing fees, docking fees, tolls, rents and other charges for the use of any project or projects or parts thereof owned or controlled by an authority;

(xx) to make and enforce rules and regulations governing the use of any project, property or facilities owned or controlled by an authority;

(xxi) To provide such insurance, including use and occupancy insurance, as its board may deem advisable;

(xxii) To cooperate with the State, any department or agency of the State, any county, municipality or other political subdivision of the State or with the United States of America or any of its departments or agencies or any corporation or authority organized or controlled by the United States of America, and to make such contracts therewith as its board may deem advisable;

(xxiii) To receive and accept grants for and in aid of construction, extension, improvement, maintenance or operation of any of its facilities or properties from the United States of America or any agency or department thereof or any corporation or authority organized or controlled thereby, from the State or any agency or department thereof, any political subdivision thereof or any municipality or county, and to receive and accept money, property, labor or other things of value from any source whatsoever.

(b) Any project or projects of an authority may be located at any place or places within the geographical boundaries of the authority's jurisdiction as set forth in its certificate of incorporation or any amendment provided however no project or part thereof shall be located within the corporate limits or police jurisdiction of a municipality which is not an authorizing subdivision unless the governing body of such municipality has first adopted a resolution consenting to the location of such project or part thereof within its corporate limits or police jurisdiction, as the case may be.

**Section 10.** Bonds — form, terms, denominations, redemption and other provisions, sale and delivery. All bonds and securities issued by an authority shall be payable solely out of the revenues derived by the authority from the leasing, sale or operation of any or all of its projects as may be designated in the proceedings of its board under which the same shall be authorized to be issued. None of the bonds, securities or notes of an authority shall ever constitute an obligation or debt of the State, of any authorizing subdivision, or of any county or municipality of the State or a charge against the credit or taxing powers of any of them.

Bonds of an authority may be executed and delivered by the authority at any time and from time to time, may be in such form and denominations and of such tenor and maturities, may be in registered or bearer form, either as to principal or interest or both, may be payable at such time or times not exceeding forty years from their date, may be made subject to redemption, may be payable at such place or places whether within or without the State of Alabama, may bear interest at such rate or rates (including variable rates), payable at such time or times and at such place or places and evidenced in such manner, and may contain such other provisions not inconsistent with this Act, all as shall be provided in the proceedings of its board whereunder the bonds shall be authorized to be issued. Any bond having a stated maturity more than ten years after its date shall state that it is subject to redemption at the option of the authority at the expiration of ten years from its date and on any interest payment date thereafter at such price or prices and after such notice or notices and on such terms and in such manner as may be provided in the proceedings wherein such Bond is authorized to be issued.

Any bonds of an authority may be sold at public or private sale in such manner and from time to time as may be determined by its board to be most advantageous and the authority may pay all expenses, premiums, fees and commissions that its board may deem necessary or advantageous in connection with the issuance thereof.

The issuance by an authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same project or other projects, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior assignment, lien or indenture for any prior issue of bonds unless in the proceedings authorizing such prior issue the right was reserved to issue subsequent bonds on a parity with such prior issue.

All bonds shall contain a recital that they are issued pursuant

to the provisions of this Act, which recitals shall be conclusive that they have been duly authorized pursuant to the provisions of this Act.

All bonds issued hereunder and any interest coupons applicable thereto are hereby made and shall be construed to be negotiable instruments.

**Section 11. Same — Execution.** All bonds shall be signed by the president or vice president and the secretary or treasurer of the authority and the seal of the authority shall be affixed thereto; provided that a facsimile of the signature of one, but not both, of the officers whose signatures will appear on the bonds may be imprinted thereon in lieu of his manually signing the same; and provided further, that a facsimile of the seal of the authority may be imprinted or otherwise reproduced on the bonds in lieu of being manually affixed thereto. Coupons shall be signed by the president or vice president and the secretary or treasurer of the authority, but a facsimile of the signature of such president or vice president and such secretary or treasurer may be imprinted on any such interest coupons in lieu of their manually signing the same. Delivery of bonds so executed shall be valid notwithstanding any changes in officers or in the seal of the authority after the signing and sealing of the bonds.

**Section 12. Same — Indenture, Lien: Remedies of Bondholders.** In the discretion of its board, any bonds issued by an authority may be secured by an indenture between an authority and a trustee, which may be any trust company or bank having trust powers, whether such bank or trust company is located within or without the State. In any such indenture or resolution providing for the issuance of bonds an authority may pledge, for payment of the principal of and the interest on such bonds, any of its revenues to which its right then exists or may thereafter come into existence and may assign, as security for such payment, any of its leases, franchises, permits and contracts; and in any such indenture, an authority may mortgage any of its properties, including any that may be thereafter acquired by it, and may provide that in the event of a default in payment of the bonds secured thereby or in the event of default with respect to any agreement contained therein, such mortgage may be foreclosed either by sale at public outcry or by judicial proceedings. Any such pledge of revenues shall be valid and binding from the time it is made, and the revenues so pledged and thereafter received by the authority shall immediately become subject to the lien of such pledge without any physical delivery thereof or further act. The lien of such pledge shall be valid and binding against all parties having claims of any kind in tort,

contract, or otherwise against the authority, irrespective of whether the parties have actual notice thereof, from the time a statement is filed in the office of the judge of probate of the county and any other county in which any part of the property, the revenues from which are so pledged, is located. Such notice need state only the date on which the resolution authorizing the issuance of the bonds was adopted by the board, the principal amount of bonds issued, a brief description of the revenues so pledged and a brief description of any property the revenues from which are so pledged. In any indenture or resolution authorizing the issuance of bonds and pledging for the benefit thereof revenues from any one or more of its facilities, the authority shall have the power to include provisions customarily contained in instruments securing evidence of indebtedness, including, without limiting the generality of the foregoing, provisions respecting the collection, segregation and application of any rental or other revenue due to or to become due to the authority, the terms to be incorporated in any lease agreement respecting any property of the authority, the maintenance and insurance of any building, structure or other property owned by the authority, the creation and maintenance of special funds from any revenue of the authority and the rights and remedies available in the event of default to the holder of the bonds or the trustee under the indenture, all as its board shall deem advisable and as shall not be in conflict with the provisions of this Act. If there be any default by an authority in payment of the principal of or the interest on the bonds or in any of the agreements on the part of an authority that may properly be included in any indenture securing the bonds or in any resolution authorizing their issuance, any holder of any of the bonds or any of the coupons, or the trustee under any indenture if so authorized in such indenture, may (in addition to any other remedies herein provided or otherwise available) by suit, action, mandamus or other proceedings, enforce payment of such principal or interest and compel performance of all duties of the board and officers of the authority, and shall be entitled as a matter of right and regardless of the sufficiency of any such security to the appointment of a receiver with all the powers of such receiver for the operation and maintenance of the property of the authority covered by such indenture or resolution and the collection, segregation and application of revenues therefrom. The indenture or any resolution may also contain provisions restricting the individual rights of action of the holders of the bonds and coupons.

**Section 13.** Same — Application of Bond Proceeds. The proceeds derived from the sale of any bonds shall be applied as provided in the proceedings in which the bonds are authorized to be issued, including without limitation, the payment of all legal, fiscal

and recording fees and expenses incurred in connection with the authorization, sale and issuance of the bonds and if so provided in the proceedings authorizing their issuance, interest on said bonds (or, if a part only of any issue of bonds is issued for acquisition purposes, interest on that portion of the bonds of that issue that is issued to pay acquisition costs) for a reasonable period prior to and during the time required for the acquisition, construction and equipping of the project and for a period not exceeding eighteen months after the completion thereof. An authority may provide in the proceedings authorizing the issuance of bonds for the capitalization of a debt service reserve and/or a replacement and extension reserve from the proceeds of its bonds.

**Section 14. Same — Refunding.** An authority may at any time and from time to time issue refunding bonds for the purpose of refunding the principal of and the interest on any bonds of the authority theretofore issued hereunder and then outstanding, whether or not such principal and interest shall have matured at the time of such refunding, and for the payment of any expenses incurred in connection with such refunding and any premium necessary to be paid in order to redeem, retire or purchase for retirement the bonds to be refunded. The proceeds derived from the sale of any refunding bonds shall be used only for the purposes for which the refunding bonds were authorized to be issued. Any such refunding bonds and the application of the proceeds thereof, or by exchange of the refunding bonds for the bonds or interest coupons to be refunded thereby; provided that the holders of any bonds or coupons so to be refunded shall not be compelled without their consent to surrender their bonds or coupons for payment or exchange prior to the date on which they may be paid or redeemed by call of the authority under their respective provisions. All provisions of this Act pertaining to bonds of an authority that are not inconsistent with the provisions of this section shall, to the extent applicable, also apply to refunding bonds issued by such authority. An authority may at any time and from time to time issue bonds both for the purpose of so refunding the principal of and the interest on any of its bonds and for any other purpose for which it is authorized to issue bonds, in which event the provisions hereof respecting refunding bonds shall apply only to that portion of such combined issue authorized for refunding purposes and the provisions thereof respecting other financing shall apply to the remaining portion of such combined issue.

**Section 15. Liability of Authorizing Subdivisions upon bonds, obligations and agreements of an authority.** Neither of the authorizing subdivisions of an authority shall in any event be liable for the payment of the principal of, interest and premium, if any, on

any bonds of an authority or for the performance of any pledge, assignment, indenture, obligation or agreement of any kind whatsoever which may be undertaken by an authority and none of the bonds of an authority or any of its agreements or obligations shall be construed to constitute an indebtedness of any authorizing subdivision within the meaning of any constitutional or statutory provision whatsoever.

**Section 16.** Disposition of Net Earnings. Each authority organized hereunder shall be a non-profit public corporation and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event its board shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the authority, then any net earnings of an authority thereafter accruing shall be paid in equal amounts to its authorizing subdivisions.

**Section 17.** Bonds are legal investments. Bonds issued under this Act are hereby made legal investments for executors, administrators, trustees and other fiduciaries and for savings banks and insurance companies organized under the laws of the State of Alabama.

**Section 18.** Dissolution of an authority and disposition of properties. Whenever the board of any authority shall by resolution determine that the purposes for which the authority was formed have been substantially complied with and any bonds theretofore issued and all obligations theretofore incurred by the authority have been paid, the authority shall thereupon execute and file for record in the office of the judge of probate of the county in which its certificate of incorporation was filed a certificate of dissolution reciting such facts and declaring the authority to be dissolved. Such certificate of dissolution shall be signed by the president or vice president of the authority under its corporate seal.

Upon the filing of such certificate of dissolution the authority shall stand dissolved, the title to all funds and properties owned by it at the time of such dissolution shall vest in equal shares in its authorizing subdivisions and the possession of such funds and properties shall forthwith be delivered to such authorizing subdivisions.

**Section 19.** Exemption from taxation. Each authority incorporated under this Act and all properties at any time owned by it and the income therefrom and all bonds issued by it and the income therefrom shall be exempt from all taxation in the State of Alabama, including, without limitation, ad valorem, sales, excise,

license and privilege taxes. The certificate of incorporation of each authority, the certificate of dissolution of each authority, all deeds or other documents whereby properties are conveyed to an authority and all deeds, indentures or leases executed by an authority may be filed for record in the office of the judge of probate of the county in which the authority is organized without the payment of any tax or fees other than such fees as may be authorized by law for the recording of such instrument.

**Section 20.** Exemption — usury and interest laws. Each authority incorporated under this Act shall be exempt from the laws of the State of Alabama governing usury or prescribing or limiting interest rates, including, without limitation, the provisions of Chapter 8, Title 8 of the Code of Alabama 1975.

**Section 21.** Construction of Act.

(a) Neither this Act nor anything contained in this Act shall be construed as a restriction or limitation upon any powers which an authority may otherwise have under any laws of this State, but shall be construed as cumulative of any such powers.

(b) No proceedings, notice or approval shall be required for the organization of an authority or the issuance of any bond or any indentures or instruments as security therefor, except as provided in this Act, any other law to the contrary notwithstanding; provided, that nothing in this Act shall be construed to deprive the State or its governmental subdivisions of their respective police powers over any properties of the authority or to impair any power thereover of any official or agency of the State or its governmental subdivisions which might be otherwise provided by law.

**Section 22.** Filing with Securities Commission. An authority proposing to issue any bonds under the authority of this Act shall comply with and be entitled to the benefits of the pre-issuance procedures specified in Article 5, Chapter 6, Title 8 of Code of Alabama 1975.

**Section 23.** Correction of Errors or Omissions in Incorporation. If an authority formed under this Act has failed to comply with the requirements of this Act in its organization, such omission or defect may be corrected as follows:

(a) Its board shall file with the governing body of each authorizing subdivision of the authority a resolution seeking permission to correct the defect or omissions, specifying such defect or omission in the resolution.

(b) The governing body of each such authorizing subdivision



shall consider such resolution and if each shall be appropriate resolution duly find and determine that it is advisable that the proposed correction be made and shall authorize the same to be made, then the president or vice president of the authority shall execute an instrument in the name of the authority embodying the corrections and shall file the same with the judge of probate of the county in which the certificate of incorporation was originally filed. Such filing shall relate back to the organization of the authority except as to rights of third parties which have intervened.

**Section 24. Severability.** In the event any provision of this Act shall be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 25. Repeal.** All laws or parts thereof which conflict with this Act are hereby repealed.

**Section 26. Effective Date.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-648

H. 931—Cabaniss

## AN ACT

To authorize and make provision for the incorporation in any Class 1 municipality as so designated by Act No. 79-263 enacted at the 1979 Regular Session of the Legislature of Alabama (being a city with a population of 300,000 or more inhabitants as certified by the 1970 federal decennial census) of Commercial Development Authorities for the purpose of promoting trade and commerce by inducing commercial enterprises to locate new facilities in this state and expand existing facilities in this state; to provide for the election and compensation of directors of any such Authorities; to provide for the powers, authorities and duties of any such Authority, its board of directors, and its officers; to authorize any such Authority to acquire by purchase, construction, exchange, gift, lease or otherwise and to refinance existing indebtedness on, improve, maintain, equip and furnish land and buildings or other improvements thereon and all real and personal properties necessary in connection therewith, whether or not now existing, suitable for use by any commercial enterprise engaged in the manufacturing, processing, assembling, storing, warehousing, distributing or selling of any products of agriculture, mining or industry, or by various enterprises for the purpose of research, or by any commercial enterprise engaged in selling, servicing, providing or handling any policies of insurance or any financial services, or suitable for use as a ship canal, port or port facility, off-street parking facility, dock or dock facility, harbor facility, railroad, monorail or tramway, railway terminal or railway beltline and switch, office building, planetarium or museum, pollution control facility, hotel,

including parking facilities, facilities for meetings, and facilities suitable for rental to persons engaged in any business, trade, profession, occupation or activity, or as a shopping center or similar facility suitable for use by two or more commercial enterprises engaged in any business, trade, profession, occupation or activity, provided that such land, buildings or other improvements thereon and all real and personal properties necessary in connection therewith shall not include facilities (other than office buildings or other buildings suitable for use as a corporate headquarters) designed for the sale or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities, and provided, further, that such property shall be located wholly within the corporate limits of such municipality and (i) wholly within areas for which either a redevelopment plan has been prepared and approved pursuant to the provisions of Section 24-2-4 of the Code of Alabama 1975 or an urban renewal plan has been prepared and approved pursuant to the provisions of Section 24-3-3 of the Code of Alabama 1975 or (ii) part of such property shall be property with respect to which an urban development action grant has been made under Section 119 of the Housing and Community Development Act of 1974; to authorize any such Authority to lease such properties to others; to authorize any such Authority to sell, exchange, donate or convey and to grant options to any lessee to acquire such properties; to provide for the issuance by any such Authority for any of its corporate purposes of interest-bearing revenue bonds and other interest-bearing securities, payable solely out of the revenues and receipts derived from the leasing or sale of such properties; to provide that in certain circumstances such securities shall constitute negotiable instruments; to provide that such securities may be secured by a pledge of the revenues and receipts from which they are payable, by contracts binding any such Authority for the proper application of its revenues and receipts and of the proceeds of such securities, and by mortgages and deeds of trust and trust indentures on the property out of the revenues and receipts from which such securities are payable; to provide for the employment by any such Authority of such officers, employees and agents as its business may require; to provide for the taking out by any such Authority of various types of insurance; to provide for the investment of funds of any such Authority; to provide for the use of the proceeds of any such securities issued by any such Authority; to provide for the refunding, by the issuance of such securities of any such Authority, of securities theretofore issued by it; to provide that such securities issued and contracts entered into by any such Authority pursuant to this Act shall not constitute or create a debt of the state or of any county, municipality or political subdivision of the state; to make the securities issued by any such Authority eligible investments for various governmental bodies and fiduciaries; to provide that any such Authority may, in its discretion, publish a notice of the adoption of a resolution authorizing the issuance of bonds by such Authority, and to provide that any action or proceeding questioning the validity of such bonds, or any pledge, mortgage and deed of trust or trust indenture securing the same, or the proceedings authorizing the same, must be commenced within thirty (30) days after the first publication of said notice; to exempt the income of any such Authority, and all conveyances, leases, mortgages and deeds of trust to which any such Authority is a party, from all taxation in the state; to exempt every such Authority from all license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which an Authority may engage, and to exempt such Authority from payment of certain charges to Judges of Probate; to exempt every such Authority from all laws of the State governing usury or prescribing or limiting interest rates; to exempt every such Authority from all laws of the state requiring competitive bids for contracts to be entered into by municipalities or public corporations; to exempt every such Authority from the supervision and control of state agencies, in particular the State Department of Finance; to provide for the disposition of the earnings, if any, of any such Authority; to provide for the dissolution of any such Authority and the disposition of its property; to limit to one the number of such

Authorities which may exist in any municipality at any one time; and to provide for the continued existence of any such Authority notwithstanding any reclassification of municipalities by the Legislature.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Legislative Intent.** It is the intent of the legislature by the passage of this act to authorize the incorporation in municipalities designated by Act No. 79-263 enacted at the 1979 Regular Session of the Legislature of Alabama as a Class 1 municipality (being a city with a population of 300,000 inhabitants or more as certified by the 1970 federal decennial census) of Commercial Development Authorities to acquire, own and lease Projects for the purpose of promoting trade and commerce by inducing commercial enterprises to locate new facilities in Class 1 municipalities and expand existing facilities in Class 1 municipalities. It is intended that each Project be self-liquidating. It is not intended hereby to authorize any Authority itself to operate any commercial enterprise. This Act shall be liberally construed in conformity with the said intent.

**Section 2. Definitions.** The following words and phrases used in this Act, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

“Applicant” means a natural person who files a written application with the Governing Body of any Municipality in accordance with the provisions of Section 4 hereof.

“Authority” means a public corporation organized pursuant to the provisions of this Act.

“Authorizing Municipality” means any Municipality the Governing Body of which shall have adopted an Authorizing Resolution.

“Authorizing Resolution” means a resolution adopted by the Governing Body of any Municipality in accordance with the provisions of Section 4 hereof, that authorizes the incorporation of an Authority.

“Board” means the board of directors of an Authority.

“Bonds” means and shall include bonds, notes and certificates representing an obligation to pay money.

“County” means any county in the State.

“Director” means a member of the Board of an Authority.

“Governing Body” means, with respect to a Municipality, its

city or town council, board of commissioners, or other like governing body.

“Incorporators” means the persons forming a public corporation organized pursuant to the provisions of this Act.

“Municipality” means an incorporated city of the State which is designated by Act No. 79-263 enacted at the 1979 Regular Session of the Legislature of Alabama as a Class 1 municipality (being a city with a population of 300,000 or more as certified by the 1970 federal decennial census).

“Person” unless limited to a natural person by the context in which it is used, includes a public or private corporation, a Municipality, a County, or an agency, department or instrumentality of the State, or of a County or Municipality.

“Principal Office” means the place at which the certificate of incorporation and amendments thereto, the by-laws and the minutes of the proceedings of the Board of an Authority are kept.

“Pollution” means (a) the placing (whether by emission, discharge, leakage or other means) of any noxious or deleterious noise or substance into any air or water of, in or adjacent to the State of Alabama; (b) the contaminating of such air and water; or (c) the affecting of any such air or water so as to render or be likely to render such air or water (or the use of either thereof for domestic, industrial, agricultural or recreational purposes) hazardous, inimical or harmful to the health, safety or welfare of human beings, animals, birds, aquatic creatures or any of them or to the existence or growth of vegetation.

“Pollution Control Facility” means any land, building, structure, machinery or equipment having to do with or designed for or the end purpose of which is the control, reduction, abatement or prevention of air, noise, water or general environmental pollution, including, but not limited to, any air pollution control facility, noise abatement or reduction facility, water management facility, water purification facility, waste water collecting system, waste water treatment works or solid waste disposal facility.

“Project” means any of the following:

(a) any land and any building or other improvement thereon and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use by the following or by any combination of two or more thereof:

(1) any commercial enterprise engaged in the

manufacturing, processing, assembling, storing, warehousing, distributing or selling of any products of agriculture, mining or industry;

(2) any enterprise for the purpose of research in connection with:

- (i) any of the foregoing;
- (ii) the development of new products or new processes;
- (iii) the improvement of existing products or known processes; or
- (iv) the development of facilities for the exploration of outer space or promotion of the national defense;

(3) any commercial enterprise engaged in selling, servicing, providing or handling any policies of insurance or any financial services;

(b) any land and any building or other improvement thereon and all real and personal property deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use as all or any part of the following:

(1) a ship canal, port or port facility, off-street parking facility, dock or dock facility, harbor facility, railroad, monorail or tramway, railway terminal or railway belt line and switch;

(2) an office building or buildings;

(3) a planetarium or museum;

(4) a Pollution Control Facility;

(5) a hotel, including parking facilities, facilities for meetings, and facilities suitable for rental to persons engaged in any business, trade, profession, occupation or activity; and

(6) a shopping center or similar facility suitable for use by two or more commercial enterprises engaged in any business, trade, profession, occupation or activity.

Provided, that a "project" does not include facilities (other than office buildings or other buildings suitable for use as corporate headquarters) designed for the sale or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities.

"State" means the State of Alabama.

**Section 3.** Use of Phrases. The following provisions shall be

applied wherever appropriate herein:

"Herein", "hereby", "hereunder", "hereof", and other equivalent words refer to this Act as an entirety and not solely to the particular section or portion thereof in which any such word is used.

The definitions set forth in Section 2 hereof shall be deemed to include both singular and plural and to cover all genders.

**Section 4.** Filing of Application; Authorization of Incorporation by Governing Body of Authorizing Municipality. A public corporation may be organized pursuant to the provisions of this Act in any Municipality. In order to incorporate such a public corporation, any number of natural persons, not less than three, who are duly qualified electors of the Municipality, shall first file a written application with the Governing Body of such Municipality, which application shall:

(1) Contain a statement that the Applicants propose to incorporate an Authority pursuant to the provisions of this Act;

(2) State the proposed location of the Principal Office of the Authority, which shall be within the corporate limits of the Municipality with whose Governing Body such application is filed;

(3) State that each of the Applicants is a duly qualified elector of the Municipality with whose Governing Body such application is filed; and

(4) Request that the Governing Body of such Municipality adopt a resolution declaring that it is wise, expedient, and necessary that the proposed Authority be formed and authorizing the Applicants to proceed to form the proposed Authority by the filing for record of a certificate of incorporation in accordance with the provisions of Section 5 hereof.

Every such application shall be accompanied by such supporting documents or evidence as the Applicants may consider appropriate. As promptly as may be practicable after the filing of the application with it in accordance with the provisions of this section, the Governing Body of the Municipality with which the application was filed shall review the contents of the application, and shall adopt a resolution either (a) denying the application or (b) declaring that it is wise, expedient, and necessary that the proposed Authority be formed and authorizing the Applicants to proceed to form the proposed Authority by the filing for record of a certificate of incorporation in accordance with the provisions of Section 5 hereof. The Governing Body with which the application is filed shall also cause a copy of the application to be spread upon or

otherwise made a part of the minutes of the meeting of such Governing Body at which final action upon said application is taken.

**Section 5.** Procedure to Incorporate; Contents and Execution of Certificate of Incorporation. Within forty (40) days following the adoption of an Authorizing Resolution the Applicants shall proceed to incorporate an Authority by filing for record in the office of the Judge of Probate of the County or one of the Counties in which the Authorizing Municipality is located a certificate of incorporation which shall comply in form and substance with the requirements of this section and which shall be in the form and executed in the manner herein provided.

The certificate of incorporation of the Authority shall state:

(1) The names of the persons forming the Authority, and that each of them is a duly qualified elector of the Authorizing Municipality;

(2) The name of the Authority (which shall be "The Commercial Development Authority of the City of \_\_\_\_\_," with the insertion of the name of the Authorizing Municipality, unless the Secretary of State shall determine that such name is identical to the name of any other corporation organized under the laws of the State or so nearly similar thereto as to lead to confusion and uncertainty, in which case the Incorporators may insert additional identifying words so as to eliminate said duplication or similarity);

(3) The period for the duration of the Authority (if the duration is to be perpetual, subject to the provisions of Section 20 hereof, that fact shall be stated);

(4) The name of the Authorizing Municipality together with the date on which the Governing Body thereof adopted the Authorizing Resolution;

(5) The location of the Principal Office of the Authority, which shall be within the corporate limits of the Authorizing Municipality;

(6) That the Authority is organized pursuant to the provisions of this Act; and

(7) Any other matters relating to the Authority that the Incorporators may choose to insert and that are not inconsistent with this Act or with the laws of the State.

The certificate of incorporation shall be signed and

acknowledged by the Incorporators before an officer authorized by the laws of the State to take acknowledgments to deeds. When the certificate of incorporation is filed for record, there shall be attached to it (a) a copy of the application as filed with the Governing Body of the Authorizing Municipality in accordance with the provisions of Section 4 hereof, (b) a certified copy of the Authorizing Resolution adopted by the Governing Body of the Authorizing Municipality, and (c) a certificate by the Secretary of State that the name proposed for the Authority is not identical to that of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty. Upon the filing for record of the said certificate of incorporation and the documents required by the preceding sentence to be attached thereto, the Authority shall come into existence and shall constitute a public corporation under the name set forth in said certificate of incorporation. The Judge of Probate shall thereupon send a notice to the Secretary of State that the certificate of incorporation of the Authority has been filed for record.

**Section 6.** Amendments to Certificate of Incorporation. The certificate of incorporation of any Authority incorporated under the provisions of this Act may at any time and from time to time be amended in the manner provided in this section. The Board shall first adopt a resolution proposing an amendment to the certificate of incorporation which shall be set forth in full in the said resolution and which amendment may include any matters which might have been included in the original certificate of incorporation.

After the adoption by the Board of a resolution proposing an amendment to the certificate of incorporation of the Authority, the chairman of the Board and the secretary of the Authority shall sign and file a written application in the name of and on behalf of the Authority, under its seal, with the Governing Body of the Authorizing Municipality, requesting such Governing Body to adopt a resolution approving the proposed amendment, and accompanied by a certified copy of the said resolution adopted by the Board proposing the said amendment to the certificate of incorporation, together with such documents in support of the application as the said chairman may consider appropriate. As promptly as may be practicable after the filing of the said application with the Governing Body of the Authorizing Municipality pursuant to the foregoing provisions of this section, that Governing Body shall review the said application and shall adopt a resolution either denying the said application or authorizing the proposed amendment. Such Governing Body shall also cause a copy of the said application and all accompanying documents to be spread upon or otherwise made a part of the



minutes of the meeting of said Governing Body at which final action upon the said application is taken.

Within forty (40) days following the adoption by the Governing Body of the Authorizing Municipality of a resolution approving the proposed amendment the chairman of the Board of the Authority and the secretary of the Authority shall sign, and file for record in the office of the Judge of Probate with which the certificate of incorporation of the Authority was originally filed a certificate in the name of and in behalf of the Authority, under its seal, reciting the adoption of said respective resolutions by the Board and by the said Governing Body and setting forth the said proposed amendment. The Judge of Probate for such County shall thereupon record such certificate in an appropriate book in his office. When such certificate has been so filed and recorded, such amendment shall become effective, and the certificate of incorporation shall thereupon be amended to the extent provided in the amendment. No certificate of incorporation of an Authority shall be amended except in the manner provided in this section.

**Section 7. Board of Directors.** Each Authority shall be governed by a board of directors. All powers of the Authority shall be exercised by the Board or pursuant to its authorization. The Board shall consist of five Directors who shall be elected by the Governing Body of the Authorizing Municipality for staggered terms as hereinafter provided. The Governing Body of the Authorizing Municipality shall specify for which term each Director is elected. The initial terms of office of two such Directors shall begin immediately upon their respective elections and shall end at 12:01 o'clock, A.M., on March 15 of the first succeeding odd-numbered calendar year following their election. The initial terms of office of three such Directors shall begin immediately upon their respective elections and shall end at 12:01 o'clock, A.M., March 15 of the second succeeding odd-numbered calendar year following their election. Thereafter, the term of office of each such Director shall be four years. If at the expiration of any term of office of any Director, a successor thereto shall not have been elected, then the Director whose term of office shall have expired shall continue to hold office until his successor shall be so elected. If at any time there should be a vacancy on the Board, a successor Director to serve for the unexpired term applicable to such vacancy shall be elected by the Governing Body of the Authorizing Municipality. No officer of the State or of any County or Municipality shall, during his tenure as such officer, be eligible to serve as a Director. Each Director must be a duly qualified elector of the Authorizing Municipality. Directors shall be eligible for re-election. Each Director shall be reimbursed for expenses actually incurred by him in and about the

performance of his duties. Any Director of the Authority may be impeached and removed from office in the same manner and on the same grounds provided in Section 175 of the Constitution of Alabama and the general laws of the state for impeachment and removal of the officers mentioned in Section 175.

**Section 8. Officers of the Authority.** The officers of an Authority shall consist of a chairman, vice chairman, secretary, treasurer, and such other officers as its Board shall deem necessary or appropriate. The offices of secretary and treasurer may, but need not, be held by the same person. The chairman and vice chairman of an Authority shall be elected by the Board from the membership thereof; the secretary, the treasurer, and any other officers of the Authority may, but need not, be members of the Board and shall also be elected by the Board. The chairman, vice chairman, secretary and treasurer of the Authority shall also be the chairman, vice chairman, secretary and treasurer of the Board, respectively.

**Section 9. Powers of Authority.** (a) An Authority shall have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form:

(1) To have succession by its corporate name for the duration of time (which may be perpetuity, subject to the provisions of Section 20 hereof) specified in its certificate of incorporation;

(2) To sue and be sued in its own name and to prosecute and defend civil actions in any court having jurisdiction of the subject matter and of the parties;

(3) To adopt and make use of a corporate seal and to alter the same at pleasure;

(4) To adopt and alter by-laws for the regulation and conduct of its affairs and business;

(5) To acquire, whether by purchase, construction, exchange, gift, lease or otherwise and to refinance existing indebtedness on, improve, maintain, equip and furnish one or more Projects, including all real and personal properties which the Board of the Authority may deem necessary in connection therewith, regardless of whether or not any such Projects shall then be in existence;

(6) To lease to others any or all of its Projects and to charge and collect rent therefor, and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof;

(7) To sell, exchange, donate or convey and to grant options to any lessee to acquire any of its Projects and any or all of its

properties whenever its Board shall find any such action to be in furtherance of the purposes for which the Authority was organized;

(8) To issue its bonds for the purpose of carrying out any of its powers;

(9) To mortgage and pledge any or all of its Projects or any part or parts thereof, as security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, whether then owned or thereafter acquired, and to pledge the revenues and receipts therefrom or from any thereof;

(10) To execute and deliver, in accordance with the provisions of this section and Section 10 hereof, mortgages and deeds of trust and trust indentures, or either;

(11) To appoint, employ, contract with, and provide for the compensation of, such officers, employees and agents, including but without limitation to engineers, attorneys, management consultants, and fiscal advisers, as the Board shall deem necessary for the conduct of the business of the Authority;

(12) To provide for such insurance as the Board may deem advisable;

(13) To make, enter into, and execute such contracts, agreements, leases and other instruments and to take such other actions as may be necessary or convenient to accomplish any purpose for which the Authority was organized or to exercise any power expressly granted hereunder;

(14) To require payments in lieu of taxes to be made by the lessee of the Project to either the Authority or the Municipality.

(b) All Projects of an Authority shall be located wholly within the corporate limits of its Authorizing Municipality and (1) shall be wholly within areas for which either a redevelopment plan has been prepared and approved pursuant to the provisions of Section 24-2-4 of the Code of Alabama 1975, as said section may at any time exist, or an urban renewal plan has been prepared and approved pursuant to the provisions of Section 24-3-3 of the Code of Alabama of 1975, as said section may at any time exist, or (2) shall include as a part of the Project facilities with respect to which an urban development action grant has been made under Section 119 of the Housing and Community Development Act of 1974, as said section may at any time exist.

(c) All meetings of the Board of an Authority for any purpose shall be open to the public.

**Section 10. Bonds of an Authority. (a) Source of Payment.** All Bonds issued by an Authority shall be payable solely out of the revenues and receipts derived from the leasing or sale by the Board of its Projects or of any thereof as may be designated in the proceedings of the Board under which the bonds shall be authorized to be issued.

(b) Pledge of Revenues, Receipts and Other Security. The principal of and interest on any Bonds issued by an Authority shall be secured by a pledge of the revenues and receipts out of which the same may be payable and may be secured by a mortgage and deed of trust or trust indenture conveying as security for such Bonds all or any part of the property of the Authority from which the revenues or receipts so pledged may be derived.

The resolution under which the Bonds are authorized to be issued and any such mortgage and deed of trust or trust indenture may contain any agreements and provisions respecting the operation, maintenance and insurance of the property covered by said mortgage and deed of trust or trust indenture, the use of the revenues and receipts subject to such mortgage and deed of trust or trust indenture, the creation and maintenance of special funds from such revenues and receipts, the rights, duties and remedies of the parties to any such instrument and the parties for the benefit of whom such instrument is made and the rights and remedies available in the event of default as the Board shall deem advisable and which are not in conflict with the provisions of this Act. Each pledge, agreement, mortgage and deed of trust or trust indenture made for the benefit or security of any of the Bonds of the Authority shall continue effective until the principal of and interest on the Bonds for the benefit of which the same were made shall have been fully paid.

In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the Bonds were issued, whether contained in the proceedings authorizing the Bonds or in any mortgage and deed of trust or trust indenture executed as security therefore, may be enforced by mandamus, the appointment of a receiver, or either of said remedies, and foreclosure of such mortgage and deed of trust or trust indenture may, if provided for in said instrument, be had.

(c) Execution. All Bonds issued by an Authority shall be signed by the chairman of its Board and attested by its secretary, and the seal of the Authority shall be affixed thereto, and any interest coupons applicable to the Bonds of the Authority shall be signed by the chairman of its Board; provided, that a facsimile of the signature of one, but not both, of said officers may be printed or

otherwise reproduced on any such Bonds in lieu of his manually signing the same, a facsimile of the seal of the Authority may be printed or otherwise reproduced on any such Bonds in lieu of being manually affixed thereto, and a facsimile of the signature of the chairman of the Board may be printed or otherwise reproduced on any such interest coupons in lieu of his manually signing the same.

(d) General Provisions Respecting Form, Interest Rate, Maturities, Sale and Negotiability of Bonds. Any such Bonds may be executed and delivered by the Authority at any time and from time to time, shall be in such form and denominations and of such tenor and maturities, shall contain such provisions not inconsistent with the provisions of this Act, and shall bear such rate or rates of interest, payable and evidenced in such manner, as may be provided by resolution of its Board. Bonds of the Authority may be sold at either public or private sale in such manner and at such price or prices and at such time or times as may be determined by the Board to be most advantageous. The Authority may pay all expenses, premiums and commissions in connection with any financing done by it. All Bonds, except Bonds registered as to principal or as to both principal and interest, and any interest coupons applicable thereto issued by the Authority shall be construed to be negotiable instruments although payable solely from a specified source.

(e) Nature of Obligation and Source of Payment. All obligations created or assumed and all Bonds issued or assumed by the Authority shall be solely and exclusively an obligation of the Authority and shall not create an obligation or debt of the State or of any County or Municipality; provided that the provisions of this sentence shall not be construed to release the original obligor from liability on any Bond or other obligation assumed by the Authority. Any Bonds issued by the Authority shall be limited or special obligations of the Authority payable solely out of the revenues and receipts of the Authority specified in the proceedings authorizing those Bonds.

(f) Eligibility for Investment. Bonds of an Authority are hereby made legal investments for executors, administrators, trustees and other fiduciaries, unless otherwise directed by the court having jurisdiction of the fiduciary relation or by the document that is the source of the fiduciary's authority, and for savings banks and insurance companies organized under the laws of the State.

**Section 11.** Proceeds from the Sale of Bonds. All moneys derived from the sale of any Bonds issued by an Authority shall be used solely for the purpose or purposes for which the same are

authorized, including, but without limitation to, the use of Bond proceeds to establish reserve funds as security for the payment of the principal of (and premium, if any) and interest on the Bonds, and any costs and expenses incidental thereto. Such costs and expenses may include but shall not be limited to (1) the fiscal, engineering, legal and other expenses incurred in connection with the issuance of the Bonds, and except in the case of refunding Bonds, interest to accrue on such Bonds for a period ending not later than two (2) years from their date.

**Section 12. Refunding Bonds.** Any Bonds issued by an Authority may from time to time be refunded by the issuance, by sale or exchange, of refunding Bonds payable from the same or different sources for the purpose of paying all or any part of the principal of the Bonds to be refunded, any redemption premium required to be paid as a condition to the redemption prior to maturity of any such Bonds that are to be so redeemed in connection with such refunding, any accrued and unpaid interest on the Bonds to be refunded, any interest to accrue on each Bond to be refunded to the date on which it is to be paid, whether at maturity or by redemption prior to maturity, and the expenses incurred in connection with refunding; provided, that unless duly called for redemption pursuant to provisions contained therein, the holders of any such Bonds then outstanding and proposed to be refunded shall not be compelled without their consent to surrender their outstanding Bonds for such refunding. Any refunding Bonds may be sold by the Authority at public or private sale at such price or prices as may be determined by its Board to be most advantageous, or may be exchanged for the Bonds or other obligations to be refunded. Any such refunding Bonds may be executed and delivered by the Authority at any time and from time to time, shall be in such form and denominations and have such tenor and maturities, shall contain such provisions not inconsistent with the provisions of this Act, and shall bear such rate or rates of interest, payable and evidenced in such manner, as may be provided by resolution of its Board.

Any refunding Bonds issued by an Authority shall be issued and may be secured in accordance with the provisions of Section 10 of this Act.

**Section 13. Notice of Bond Resolution.** Upon the adoption by the Board of any Authority of any resolution providing for the issuance of Bonds, such Authority may, in its discretion, cause to be published once a week for two consecutive weeks, in a newspaper published or having a general circulation in the Authorizing Municipality, a notice in substantially the following form (the

blanks being properly filled in) at the end of which shall be printed the name and title of either the chairman or secretary of such Authority: “ \_\_\_\_\_, a public corporation unders the laws of the State of Alabama, on the \_\_\_\_\_ day of \_\_\_\_\_, authorized the issuance of \$\_\_\_\_\_ principal amount of bonds of the said public corporation for purposes authorized in the act of the Legislature of Alabama under which the said public corporation was organized. Any action or proceeding questioning the validity of the said bonds, or the pledge and the mortgage and deed of trust or trust indenture to secure the same, or the proceedings authorizing the same, must be commenced within thirty (30) days after the first publication of this notice.” A newspaper shall be deemed to be published in the Authorizing Municipality, within the meaning of this section, if its principal editorial office is located in the Authorizing Municipality.

Any action or proceeding in any court to set aside or question the proceedings for the issuance of the Bonds referred to in said notice or to contest the validity of any such Bonds, or the validity of any pledge and mortgage and deed of trust or trust indenture made therefor, must be commenced within thirty (30) days after the first publication of such notice. After the expiration of the said period no right of action or defense questioning or attacking the validity of the said proceedings or of the said Bonds or the said pledge or mortgage and deed of trust or trust indenture shall be asserted, nor shall the validity of the said proceedings, Bonds, pledge, mortgage, and deed of trust or trust indenture be open to question in any court on any ground whatsoever except in an action commenced within such period.

**Section 14. Exemption from Taxation.** The income of any Authority, all bonds issued by an Authority and the interest paid on any such bonds, all conveyances by or to an Authority, and all leases, mortgages, and deeds of trust by or to an Authority shall be exempt from all taxation in the State of Alabama. Any Authority shall also be exempt from all license and excise taxes imposed in respect of the privilege of engaging in any of activities in which an Authority may engage. An Authority shall not be obligated to pay or allow any fees, taxes or costs to the Judge of Probate of any County in respect of its incorporation, the amendment of its certificate of incorporation, or the recording of any document. Nothing contained in this section shall be construed to exempt the property of an Authority from any ad valorem taxes imposed by the State or any county, municipality or other political subdivision, or to exempt an Authority from any privilege or license taxes levied by the State or any county, municipality or other political subdivision

with respect to tangible personal property purchased or used by an Authority.

**Section 15. Liability of Authorizing Municipality.** The Authorizing Municipality shall not in any event be liable for the payment of the principal or interest on any Bonds of an Authority or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by an Authority, and none of the Bonds of an Authority or any of its agreements or obligations shall be construed to constitute an indebtedness of the Authorizing Municipality within the meaning of any constitutional or statutory provision whatsoever.

**Section 16. Exemption from Usury and Interest Laws.** Each Authority shall be exempt from the laws of the State of Alabama governing usury or prescribing or limiting interest rates, including, but without limitation to, the provisions of Chapter 8 of Title 8 of the Code of Alabama of 1975, as it may at any time be amended.

**Section 17. Exemption from Competitive Bid Laws.** Any Authority and all contracts made by it shall be exempt from the laws of the State of Alabama requiring competitive bids for any contract to be entered into by municipalities or public corporations authorized by them, including, but without limitation to, the provisions of Article 3 of Chapter 16 of Title 41 of the Code of Alabama 1975, as it may at any time be amended.

**Section 18. Freedom of Authority from State Supervision and Control.** This Act is intended to aid the State through the furtherance of the purposes of the Act by providing appropriate and independent instrumentalities of the State with full and adequate powers to fulfill their functions. Except as expressly provided in this Act, no proceeding, notice or approval shall be required for the incorporation of any Authority or the amendment of its certificate of incorporation, the issuance of any Bonds, the execution of any mortgage and deed of trust or trust indenture, or the exercise of any other of its powers by an Authority. Neither a public hearing nor the consent of the State Department of Finance shall be prerequisite to the issuance of Bonds by an Authority.

**Section 19. Earnings of an Authority.** An Authority shall be a nonprofit corporation and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event a Board shall determine that sufficient provision has been made for the full payment of the expenses, Bonds and other obligations of an Authority, then any net earnings of an Authority thereafter



accruing shall be paid to its Authorizing Municipality.

**Section 20.** Dissolution of the Corporation and Vesting of Title to Property in Authorizing Municipality. At any time when an Authority has no Bonds or other obligations outstanding, its Board may adopt a resolution, which shall be duly entered upon its minutes, declaring that the Authority shall be dissolved. Upon filing for record of a certified copy of the said resolution in the office of the Judge of Probate of the County with which the Authority's certificate of incorporation is filed, the Authority shall thereupon stand dissolved and in the event it owned any property at the time of its dissolution, the title to all its properties shall thereupon pass to the Authorizing Municipality.

**Section 21.** Existence of an Authority to Prevent Incorporation of Another by the Same Municipality. The existence of an Authority incorporated under the provisions of this Act shall prevent the subsequent incorporation hereunder of another Authority pursuant to authority granted by the same Municipality.

**Section 22.** Continued Existence of Authority Notwithstanding Reclassification of municipalities. Any Authority created hereunder shall continue in existence and shall have all powers conferred upon an Authority organized pursuant to this Act notwithstanding the fact that due to a reclassification of municipalities by the Legislature, the municipality which authorized the creation of such Authority is no longer classified as a Class 1 municipality.

**Section 23.** Provisions are Cumulative. The provisions of this Act are cumulative and shall not be deemed to repeal existing laws, except to the extent such laws are clearly inconsistent with provisions of this Act.

**Section 24.** Severability. In the event any section, sentence, clause or portion of this Act should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses or portions of this Act, which shall continue effective.

**Section 25.** Effective Date of Act. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-649

H.J.R. 292—Greer

## HOUSE JOINT RESOLUTION

CREATING AN INTERIM COMMITTEE TO STUDY NUCLEAR POWER PLANTS AND TO MAKE RECOMMENDATIONS REGARDING A REGULATORY AGENCY.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created an interim legislative committee composed of six members, three from the house and three from the senate, to study nuclear power plants and to make recommendations regarding a regulatory agency.

The chairman of the committee may set the place of meeting anywhere in the states of Alabama or Tennessee that he deems necessary to aid in the work of the committee.

The committee shall report its findings, comments, suggestions, and recommendations to the legislature on the fifth legislative day of the 1981 Regular Session, on which date the interim committee hereby established shall automatically be terminated.

Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the Legislature, on warrants drawn on the state comptroller upon requisition signed by the committee's chairman. The total of said appropriation shall not exceed \$9,000.00.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-650

H.J.R. 318—Manley

## HOUSE JOINT RESOLUTION

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn today, Monday, May 19, 1980, they shall adjourn sine die.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-651

H.J.R. 329—Payne

## HOUSE JOINT RESOLUTION

COMMENDING E. B. ERWIN HIGH SCHOOL'S BAND UPON RECEIVING TOP HONORS IN THE GREAT AMERICAN MUSIC FESTIVAL IN ORLANDO, FLORIDA.

WHEREAS, the Legislature of Alabama notes with great pride that the band at E. B. Erwin High School located in Center Point, Alabama recently returned from the Great American Music Festival, which was held in Orlando, Florida; and

WHEREAS, more than 200 representatives from the high schools attended the four-day competition at the Festival; and

WHEREAS, the high school's band returned from the competitive participation with top honors; and

WHEREAS, the Red Concert Band received the only superior rating that was awarded and The White Band received a good rating, the A-Stage Band was rated excellent, the B-Stage Band won first place in its competition and the choir received an excellent rating; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate E. B. Erwin High School's band in its most distinguished achievement.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to E. B. Erwin High School and to each of the band's directors, Mr. Michial Mayhall and Mr. Carmon Love, to demonstrate our great pride for their most notable accomplishment.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-652

H.J.R. 333—Sandusky, McMillan, Manley,  
Harper (T), Bedsole, Campbell,  
Willis, Clark (G), Adams (H),  
Adams (C), Langford, Holley,  
Wyatt, Ward

## HOUSE JOINT RESOLUTION

COMMENDING HIGHWAY DIRECTOR REX RAINER.

WHEREAS, Rex Rainer has brought skill and integrity to the job of Highway Director; and

WHEREAS, Rex Rainer is highly respected by his fellow colleagues for his display of determination and dedication to the Highway Department; and

WHEREAS, Rex Rainer has displayed tremendous leadership as Highway Director; and

WHEREAS, the Highway Department has displayed great efficiency and productivity under the direction of Rex Rainer; and

WHEREAS, Rex Rainer played an instrumental role in the passage of the gas tax; and

WHEREAS, the money collected as a result of this gas tax will be used to repair and improve highways in the State of Alabama; and

WHEREAS, these repairs and improvements will save innumerable lives on Alabama's highways; and

WHEREAS, the people of Alabama are proud of and grateful to Rex Rainer for his dedicated service to the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, both Houses thereof concurring, that Rex Rainer be highly commended for his outstanding service to the State of Alabama as Highway Director,

BE IT FURTHER RESOLVED, That we wish Rex Rainer continued success in his return to Auburn University as the Chairman of the Department of Civil Engineering, and that a copy of this resolution be sent to Rex Rainer.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-653

H.J.R. 334—Lewis, Adams (C), Adams (H),  
Albright, Amari, Barton,  
Bedsole, Bennett, Biddle, Blake,  
Boles, Bowling, Brakefield,  
Buskey, Cabaniss, Campbell,  
Carothers, Carter, Cates,  
Cheatwood, Clark (G), Clark (W),  
Cobb, Coburn, Cooley, Cosby,

Crow, Daniels, Dial, Dixon,  
 Drinkard, Edwards, Ford,  
 Gafford, Gilmer, Goodwin,  
 Greer, Gregg, Grimsley, Grouby,  
 Hall, Hammett, Harper (O),  
 Harper (T), Harrison, Harvey,  
 Hilliard, Hines, Holley, Holmes,  
 Horn, Howard, Jackson,  
 Johnson (R.G.), Johnson (Roy),  
 Kelley, Kennedy, Laird,  
 Langford, Letson,  
 McCorquodale, McKee,  
 McMillan, Manley, Minus,  
 Mitchell, Moore, Naramore,  
 Nevett, Olive, Owens, Parker,  
 Patton, Payne, Pegues, Penry,  
 Rains, Ray, Reed, Riddick,  
 Roberts, Sandusky, Sasser,  
 Seibels, Shavers, Shoemaker,  
 Smith (C), Smith (J), Smith (M),  
 Starkey, Stewart, Stout,  
 Trammell, Tucker, Turner,  
 Turnham, Venable, Waggoner,  
 Ward, Warren, Whatley,  
 Williams, Willis, Wyatt, Zoghby

## HOUSE JOINT RESOLUTION

### EXTENDING OUR BEST WISHES TO MISS MARGARET LOUISE HANBY AND MR. MONTGOMERY FELD.

WHEREAS, it is with extreme pleasure that the Legislature of Alabama notes the forthcoming marriage, on May 31, 1980, of Miss Margaret Louise Hanby to Mr. Montgomery Feld, both of Montgomery, Alabama; and

WHEREAS, Miss Hanby, a Birmingham native, is a graduate of the University of Montevallo, of Auburn University with a Master's Degree in Education, and currently is a member of the faculty of Southlawn Elementary School; she is vice president of Gamma Chapter of Alpha Delta Kappa and also is Chairman of the Council on Ministries of the Whitfield Memorial United Methodist Church; and

WHEREAS, Mr. Feld, formerly of Tuscaloosa, is a graduate of the University of Alabama, the University's School of Law, and is a member of the Alabama State Bar Association; and

WHEREAS, the happiness we share with this fine young couple is indeed personal in its pleasure, as Monty Feld is a longtime friend of many members of the Alabama House and Senate through his association, as an analyst, with the Legislative Reference Service; his work for the Legislature, as a result of thorough research and careful study, is consistently singular in soundness and in accuracy; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we extend best wishes to our friends Margaret Hanby and Monty Feld; we sincerely wish them much happiness in the years ahead and direct that they receive a copy of this resolution in token of our affection and warm personal regards.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-654

H.J.R. 343—Greer

### HOUSE JOINT RESOLUTION

REQUESTING STATE BOARD OF HEALTH TO NOTIFY LOCAL BOARDS OF HEALTH TO STOP PRACTICES OF REGULATING ELECTRICAL SERVICES TO BUILDINGS FOR FAILURE TO MEET CERTAIN SPECIFICATIONS.

WHEREAS, The Office of the Attorney General released an opinion on May 8, 1980 which held that neither the State nor a county board of health can prohibit the turning on of electrical services to buildings based on the failure of the sewage or septic system to meet health department regulations; and

WHEREAS, the reasoning of the May 8, 1980 Attorney General Opinion is based on a recent Alabama Supreme Court case, *Baldwin County Board of Health vs. Baldwin County Electric Membership Corporation*, 335 So. 2d 708 (1978); now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body strongly requests that the State Board of Health notify each local board of health to cease and desist from the practice of prohibiting the installment of, or turning on of, or otherwise regulating, electrical services to buildings which fail to meet health regulations concerning sewage systems or septic tanks.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-655

H.J.R. 353—Venable

## HOUSE JOINT RESOLUTION

HONORING EDRIE VARNER GEDDIE, ELEMENTARY SCHOOL TEACHER, ELMORE COUNTY SCHOOL SYSTEM.

WHEREAS, the Alabama Legislature has noted the retirement plans of Mrs. Edrie Varner Geddie, after 38 years of distinguished service to the Elmore County Public Schools; and

WHEREAS, since Mrs. Geddie first began her teaching career in 1941 at Fitzpatrick Crossing, a one room schoolhouse and a one teacher school; and

WHEREAS, she subsequently taught at Lightwood Elementary, Deatsville Elementary, and for the past 26 years she has taught the first grade at Robinson Springs Elementary School; and

WHEREAS, she has instructed over 1400 students in the basic skills of reading, writing and arithmetic; and

WHEREAS, for her many years of dedication, Mrs. Geddie will soon be honored at "Teacher of the Year" by the Millbrook Kiwanis Club; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that we highly commend Edrie Varner Geddie, on her outstanding career in public education, and express our deep appreciation for her years of service to the young boys and girls of Elmore County who have reaped the rewards of her teaching.

BE IT FURTHER RESOLVED, that we congratulate Mrs. Geddie upon her retirement and that she receive a copy of this resolution as a token of our appreciation.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-656

H.J.R. 357—Patton

## HOUSE JOINT RESOLUTION

DESIGNATING ACT NO. 80-585, SENATE BILL 357, AS THE MITCHEM-KELLEY ACT.

WHEREAS, State Senator Hinton Mitchem and State

Representative Phil Kelley have worked long and hard to create a vehicle to provide mortgage monies for low and moderate income families who have been priced out of the housing market due to high interest rates and the absence of conventional mortgage money; and

WHEREAS, they have also recognized the need to provide increased employment in the very depressed housing industry and for its sub-contractors, suppliers, product manufacturers, etc., to facilitate the improvement of the economy in this state; and

WHEREAS, there exists a critical need for new housing in all parts of the state; and

WHEREAS, Senator Mitchem and Representative Kelley sponsored legislation in their respective houses to provide for a State Housing Finance Authority to provide mortgage money through existing lending institutions; and

WHEREAS, said legislation will allow those who would otherwise be precluded from home ownership to become home owners; and

WHEREAS, the home building and associated businesses and industries will be able to sustain increased employment and contribute to the improvement of the economy in their community and the state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Act No. 80-585, Senate Bill 357, of the 1980 Regular Session of the Legislature, is hereby designated as "The Mitchem-Kelley Act."

BE IT FURTHER RESOLVED, That copies of this resolution be sent to Senator Hinton Mitchem and to Representative Phil Kelley.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-657

H.J.R. 346—Holley

### HOUSE JOINT RESOLUTION

RECREATING AN INTERIM COMMITTEE TO IMPLEMENT THE PURCHASE OF PROPERTY WITHIN THE CAPITOL COMPLEX.

WHEREAS, there exists a serious shortage of space for



members and staff of the Alabama Legislature, visitors, state employees; and

WHEREAS, the State of Alabama already owns property near or adjacent to buildings currently in use by the State Highway Department; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby recreated a joint committee that was created during the 1979 Special Session, Act #79-339.

This interim committee shall have a budget of \$3,000.00 and it shall oversee and work with the Building Commission on procurement of property surrounding the State Capitol. The Committee shall be charged with the responsibility of making recommendations to the State Building Commission as to the purchase of property located in two lots behind the Capitol for which purpose there has been appropriated \$1,968,680 for that purpose.

The Speaker of the House shall appoint two members from the House and the Lieutenant Governor shall appoint two members from the Senate to this Committee.

Upon the request of the Chairman of such Committee, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the Committee's work. The Committee shall report its findings, conclusions and recommendations to the Legislature not later than the 5th legislative day of the 1981 Regular Session, whereupon the Committee shall be dissolved. Each member of the Committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the Committee which shall be paid out of any funds appropriated to the use of the Legislature, on warrants drawn on the state comptroller upon requisition signed by the Committee's Chairman.

BE IT FURTHER RESOLVED, That this Committee be authorized to carry out the provisions of this Resolution.

Approved May 28, 1980

Time: 4:00 P.M.

To be known as "Alabama Banking Code", revising the laws of Alabama in Title 5 of the Code of Alabama 1975 providing for: general provisions; the State Banking Department; examination and reports of banks; retention of bank records; organization and operation of banks; directors, officers and employees of banks; bank merger, consolidation or conversion; liquidation of banks; reorganization of banks; bank emergencies and compliance with federal laws; regulation of trust business of banks and trust companies; administration of common trust funds; repealing numerous specific code sections and statutes that conflict herewith as well as all other laws that conflict with this act.

*Be It Enacted by the Legislature of Alabama:*

## **Chapter 1. GENERAL PROVISIONS**

### **Section 5-1-1: Short title.**

This act shall be known and may be cited as the "Alabama Banking Code". It shall also be known and may be cited as the Gullege-Cates Banking Reform Act of 1980.

### **Section 5-1-2: Definitions.**

For the purposes of this title, the following terms shall have the meanings respectively ascribed to them by this section:

**BANK.** Any banking corporation or trust company organized under the laws of this state under the jurisdiction of the superintendent of banks of this state or organized under the laws of the United States having its principal place of business in this state.

**SUPERINTENDENT.** The superintendent of banks of this state.

**RECEIVERSHIP COURT.** The circuit court of the county in which is located the principal office of a bank in receivership.

**NATIONAL BANK.** A national banking association organized pursuant to 12 U.S.C. § 21.

**CAPITAL.** The sum of the par value of the authorized shares of a bank which have been issued and remain outstanding.

**SURPLUS.** The aggregate of the amounts transferred to surplus pursuant to section 5-5-21 and any amounts subsequently designated as such by action of the board of directors of the bank.

**UNDIVIDED PROFITS.** The accumulated undistributed net profits of a bank.

**BANK HOLDING COMPANY.** A banking holding company as defined in 12 U.S.C. § 1841.

**Section 5-1-3:** Use of words "bank," "banker," "banking," etc., restricted.

The use of the words "bank," "banker," "banking" or words of similar meaning in any foreign language as a designation or name, or as part of a designation or name, under which business is or may be conducted in the state of Alabama, or in its advertising is restricted to banking corporations organized under the laws of Alabama, other states, the United States or foreign countries. All other persons, firms, or corporations are prohibited from using the words "bank," "banker," or "banking" or words of similar meaning in any foreign language as a designation or name or as part of a designation or name under which business may be conducted in this state. Any violation of this prohibition shall subject the party chargeable therewith to a penalty of \$100.00 for each day during which it is committed or repeated. Such penalty may be recovered by the superintendent by an action instituted for that purpose, and, in addition to said penalty, such violation may be enjoined and the injunction enforced as in other cases. This section shall not be applicable to any residents of this state regularly engaged in business in this state as individuals, partnerships, unincorporated associations or Alabama corporations now lawfully using such words in their trade or firm name.

#### Section 5-1-4. Restrictions on engaging in banking business.

No person, firm, corporation or other entity except a bank or if otherwise lawfully authorized a credit union or a savings and loan association may lend money and either receive deposits or pay checks at its principal office or branch in this state.

#### Section 5-1-5: Supervisory provisions of title not applicable to national banks.

The supervisory provisions of this title shall not apply to national banks.

### Chapter 2. STATE BANKING DEPARTMENT

#### Section 5-2-1: Duties generally.

There shall be a state banking department which shall administer the laws of this state which regulate or otherwise relate to corporations doing or carrying on a banking business or operating a credit union in the state, all laws relating to savings and loan associations doing business in this state and all laws relating to persons, firms or corporations engaging in the loan business in this state. The authority of the state banking department to perform such functions shall be exclusive.

#### Section 5-2-2: Offices, venue.

The state banking department shall locate and maintain its

principal office in the city of Montgomery, Alabama, from which place it shall perform its duties and transact its business. Unless otherwise provided in this title, all actions in which the superintendent, the banking department or its employees, the banking board or its members are named or joined must be brought in the circuit court of Montgomery County.

Section 5-2-3: Assessment of banks - when payable; amount; disposition of revenue.

Each bank shall on the call of the superintendent pay to the state banking department an assessment fee based on the total resources of the bank as may be shown by its last report to the state banking department. The rate of such assessment shall be in an amount fixed by the superintendent and approved by the banking board and the assessment may be made more frequently than annually. All assessments and other fees collected by the state banking department shall be paid into a special fund to be set up by the state treasurer. The special fund shall be used to pay the salaries of the officials and employees and the expenses of the state banking department, including the purchase of equipment, vehicles and supplies necessary for the examination and supervision of banks, and all monies deposited therein are hereby appropriated for that purpose. The expense of all examiners of the state banking department shall be paid according to regulations promulgated by the superintendent, and the state banking department and its several bureaus and divisions are hereby exempt from the provisions of Sections 36-7-20 and 36-7-22 of the Code of Alabama 1975. It is provided, however, that nothing in this section shall be construed to mean that all salaries of the officials and employees and expenses of operating and equipping the state banking department shall come from the special fund. No other assessment or license of any kind shall be levied against or collected from any bank or banking institution, except the ordinary taxes assessed against property in general, and except as may be specifically provided for in this Code.

Section 5-2-4: Same - Fees for failure to pay assessment; proceedings for collection of assessment.

Each bank failing to make payments of assessments on call made by the superintendent within 30 days after receiving notice from the superintendent of the amount of the assessment, shall pay to the state \$100.00 for each day after such 30 day period. Such sum, together with the amount due from the bank, may be collected by civil action from the bank in the name of the state against the bank, and the attorney general shall represent the superintendent in proper proceedings to enforce the collection of the assessment,

together with the amount provided in this section.

**Section 5-2-5: Superintendent - qualifications, appointment and term of office; filling of vacancies.**

The state banking department shall be in the charge of the superintendent, who shall be the chief executive officer of the department. The superintendent shall be a person of good character and shall be neither directly nor indirectly interested in nor borrow money from a bank chartered under the laws of this state. Debts of the superintendent existing at the time of his appointment with banks chartered under the laws of this state may not be extended or renewed. The superintendent shall be appointed by the governor by and with the consent of the senate. The term of office of the superintendent shall expire on the first day of February after the expiration of the term of office of the governor making the appointment, but he may continue to serve until his successor is appointed and has qualified. If for any reason there should be a vacancy in the office while the senate is not in session, the governor shall appoint a superintendent and such superintendent shall hold office and exercise the powers conferred by law upon him until the senate meets and passes on the appointment, and if his appointment is disapproved by the senate another appointment shall be made by the governor in like manner until an appointment is confirmed by the senate. To be eligible for appointment as superintendent, a person must have had at least five years' experience in the 10 years next preceding his appointment either as an officer or director of a bank or an examiner or other officer in a federal or state bank supervisory agency, including the office of the comptroller of the currency, the federal reserve system, the federal deposit insurance corporation and the banking departments of the various states or other equivalent experience for at least five years in the 10 years next preceding his appointment.

**Section 5-2-6: Same - Oath and bond.**

The superintendent, before entering upon the discharge of his duties, shall take and subscribe to the oath prescribed by the Constitution and laws of this state, and shall give bond in the penal sum of \$25,000. The oath and the bond shall be filed with the secretary of state.

**Section 5-2-7: Same - Seal of office; recordation of executed papers.**

The secretary of state shall provide the superintendent with an official seal. Every paper executed by him as such superintendent,

in pursuance of any authority conferred on him by law and sealed with his official seal, shall be received in evidence and may be recorded in the proper recording office in the state in the same manner and with the same effect as a deed regularly acknowledged or proven.

Section 5-2-8: Same - Removal; removal of member of banking board.

(a) The superintendent or any member of the banking board may be removed from office by vote of two thirds of the members of the entire banking board for

- (1) neglect of duty;
- (2) malfeasance;
- (3) misfeasance;
- (4) extortion or corruption in office;
- (5) incompetency;

(6) intemperance in the use of intoxicating liquors or narcotics to such an extent, in view of the dignity of the office and the importance of its duties, as to render such person unfit for the discharge of his duties; or

(7) any offense involving moral turpitude while in office, committed under color thereof or connected therewith.

(b) The superintendent may also be removed from office, without cause, upon written order of four appointed members of the banking board and the governor.

Section 5-2-9: Same - expansion of banking powers by superintendent.

(a) The legislature finds as fact and determines that the financial industry composed of those banks, savings and loan associations and credit unions having their principal place of business in Alabama must keep pace with technological and other improvements constantly being made throughout the United States so as to enable Alabama banks, savings and loan associations and credit unions to render better and more efficient services to the citizens of Alabama. It is necessary and desirable that the superintendent be given additional authority in these fields.

(b) The superintendent is hereby authorized to expand banking powers of Alabama banks or the powers of Alabama savings and loan associations or the powers of Alabama credit unions in order to (1) accommodate or take advantage of changing

technologies and (2) assure the ability of Alabama banks, Alabama savings and loan associations and Alabama credit unions to be responsive in their respective businesses to the needs and conveniences demanded by consumers and businesses through on-premises as well as off-premises operations; provided, that nothing in this section shall enable the superintendent to authorize banks to engage in activities which are not properly incident to the business of banking nor to enable the superintendent to authorize savings and loan associations or credit unions to engage in the business of offering financial services which are now prohibited to them. No bank, no savings and loan association and no credit union having its principal place of business outside of Alabama may engage in the banking, savings and loan or credit union business in Alabama under the provisions of this section; provided, that the superintendent is authorized to enter into agreements with the appropriate regulatory authorities of other states or of the United States, under the terms of which banks, savings and loan associations or credit unions of such foreign state or subject to federal regulatory jurisdiction, and banks, savings and loan associations and credit unions having their principal place of business in Alabama are given and may exercise reciprocal rights.

(c) The superintendent is authorized to issue regulations under subsection (b) and shall give notice in writing of any such proposed regulation to each Alabama bank, Alabama savings and loan association and Alabama credit union affected thereby, inviting comments, and shall give due consideration to such comments before adopting any final regulation. Any regulation issued under this section relating to banks shall be adopted pursuant to the provision of section 5-2-11. Any Alabama bank, Alabama savings and loan association or Alabama credit union and any foreign corporation or association covered by the provisions of subsection (b) desiring to exercise any such expanded power must secure in advance written permission of the superintendent. The superintendent may prescribe the form or forms for such applications for permits and may impose reasonable conditions in granting such permits.

(d) To the extent permitted by federal law, the provisions thereof may be utilized by national banks and federally chartered savings and loan associations and federally chartered credit unions.

**Section 5-2-10. Superintendent of banks - Promulgation of regulations.**

The superintendent may, with the concurrence of a majority of the members of the state banking board or, in the case of regulations exclusively affecting credit unions, with the

concurrence of a majority of the credit union board of the bureau of credit unions, promulgate such reasonable regulations, consistent with the laws of this state, as may be necessary to carry out the provisions of this title over which the state banking department has jurisdiction. The superintendent shall, in addition, issue written interpretations of banking laws and regulations. Any bank and any officer or director thereof relying on any regulation or interpretation shall be fully protected even though the same shall be thereafter ruled invalid for any reason by a court of competent jurisdiction.

**Section 5-2-11: Same - Procedure for promulgation of regulations; judicial review.**

(a) Prior to the adoption, amendment, or repeal of any regulation, the superintendent shall:

(1) give at least thirty-five days' notice of the intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all banks in this state and shall be published in a newspaper of general circulation in Montgomery County. A complete copy of the proposed regulation shall be filed with the secretary of state; and

(2) afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. Opportunity for oral hearing must be granted if requested by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members. The superintendent shall consider fully all written and oral submissions respecting the proposed regulation. Upon adoption of a regulation, the superintendent, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein the reasons for overruling the considerations urged against its adoption.

(b) Notwithstanding any other provision of this section to the contrary, if the superintendent finds that an immediate danger to the public welfare requires adoption of a regulation upon fewer than thirty-five days' notice and states in writing his reasons for that finding, he may proceed without prior notice or hearing or upon any abbreviated notice and hearing that he finds practicable to adopt an emergency regulation. The regulation shall become effective immediately, unless otherwise stated therein, upon the



filing of the regulation and a copy of the written statement of the reasons therefor with the secretary of state. The regulation may be effective for a period of not longer than one hundred twenty days and shall not be renewable. The superintendent and banking board shall not adopt the same or a substantially similar emergency regulation within one calendar year from its first adoption unless the superintendent clearly establishes it could not reasonably be foreseen during the initial one hundred twenty day period that such emergency would continue or would likely reoccur during the next nine months. The adoption of the same or a substantially similar regulation by normal regulation-making procedures is not precluded.

(c) No regulation hereafter adopted is valid unless adopted in substantial compliance with this section. A proceeding to contest any regulation on the ground of non-compliance with the procedural requirements of this section must be commenced within two years from the effective date of the regulation; provided, however, that a proceeding to contest a regulation based on failure to provide notice as herein required or on an incorrect interpretation of the law may be commenced at any time.

(d) The validity or applicability of any regulation or an interpretation of the banking department may be determined in an action for declaratory judgment brought in the circuit court of Montgomery County when it is alleged that the adoption, amendment or repeal of any regulation or any interpretation or the application or threatened application of any regulation or any interpretation interferes with or impairs or threatens to interfere with or impair the legal rights and privileges of the bank or any person affected thereby.

#### Section 5-2-12: Same - Impairment of capital.

Whenever the superintendent shall have reason to believe that the capital of any bank is impaired, he may in his discretion require such bank to make good the deficit by the date specified by him, which requirement shall be in writing. The superintendent may cause the affairs of any such bank to be examined to ascertain the amount of such impairment and whether the deficiency has been made good as required by law.

#### Section 5-2-13: Same - Losses; to correct impairment of capital.

Whenever losses are sustained by a bank, such losses shall be charged on the books of the bank as losses so that the books of the bank will show the true condition of the bank. When, by reason of losses or otherwise, the capital of a bank is impaired, and when the

bank has been notified by the superintendent, under Alabama Code section 5-2-12, the bank must make good its impairment of capital in a manner approved by the superintendent.

Section 5-2-14: Same - superintendent to report and order correction of unsafe and unsound matters; removal of directors or officers.

The superintendent may order the board of directors of any bank to correct any matters in the conduct of the affairs of the bank which in his opinion are unsafe and unsound. The banking board may, after at least ten days' written notice to the bank and any officer or director affected, and a hearing, remove any director or officer of a bank which does not comply with the superintendent's order to correct unsafe and unsound matters if the banking board by written order enters a finding that the bank has thereby suffered or will probably suffer substantial financial loss and that such practice is one involving personal dishonesty on the part of such director or officer or one which demonstrates a willful and continuing disregard for the safety and soundness of the bank, the result of which has caused the bank to suffer or which is likely to cause the bank to suffer substantial financial loss. In such written notice, the superintendent shall include a specific statement of the facts constituting the alleged unsafe and unsound conduct to be made the basis of the removal. At the hearing thereof, the officer or director shall have the right to appear in person or by counsel. Any order directing removal of a director or officer shall within fifteen days of the date of entry thereof be appealable to the Circuit Court of Montgomery County, which appeal shall be conducted *de novo*. Pending expiration of the time for appeal, the order of removal shall not become effective. All proceedings before the banking board shall be confidential. Any person violating this section by disclosure of information shall be guilty of a misdemeanor.

Section 5-2-15: Same - Annual report to governor; publication and distribution, etc.

The superintendent shall make from the reports of the department during the year an annual report to the governor on the activities of the banking department and such other information as the governor may request and shall keep on file as a public record in the superintendent's office a copy thereof. The board may print for public distribution such annual report and such other material as it deems suitable for the more effective administration of departmental business.

Section 5-2-16: Same - Reports of criminal violations to grand juries.

The superintendent shall submit to the grand juries in the respective counties of the state any criminal violations of the banking laws known by him to have occurred in such county.

**Section 5-2-17: Independent audit; minimum standards.**

The board of directors of each state bank shall at least once in each calendar year have an audit made of its books and affairs, including any accounts held in a fiduciary capacity, by independent auditors approved by the superintendent. These may be separate audits. "Independent auditors" shall include the audit staff of a correspondent bank or the audit staff of a bank holding company, or auditors or accountants who are not employees of the bank. The superintendent shall by regulation establish minimum standards for audits and reports, which shall include such matters as he shall require. To assist in promulgating minimum standards for audits and reports, the superintendent shall appoint an advisory committee of no less than six members. Membership of the committee shall consist of auditors, as qualified in this act, who regularly perform audits in banks chartered under the laws of Alabama. A majority of the committee shall be comprised of individuals who are certified internal auditors, chartered bank auditors, or certified public accountants. The committee shall meet at the call of the superintendent. The advice of this committee shall not be binding on the superintendent and the members shall serve without compensation. A report of the audit shall be signed by the person making it, and such signed copy shall be submitted to the board of directors and retained in the bank. If any bank has a system of internal audit approved by the superintendent of banks, no such independent audit shall be required, and in lieu thereof the auditor or comptroller of the bank shall submit to its board of directors an annual summary of the same matters, which shall be retained in the bank. Such report shall also set forth the degree of compliance with the approved audit system.

**Section 5-2-18: Appointment, etc., of assistants and employees generally; bond of deputy superintendent.**

(a) Subject to the provisions of the Merit System Act, the superintendent may appoint or employ one or more deputy superintendents and such assistants, employees and attorneys as may be necessary to the efficient operation of the department. He shall fix their compensation in accordance with the Merit System Act and the pay plan of the state personnel department. All such assistants, employees and attorneys shall be subject to the provisions of the Merit System. The superintendent shall, with the approval of the governor, have authority to employ and discharge special counsel as he may deem necessary.

(b) The deputy superintendent of banks shall in the absence of the superintendent exercise any of the powers conferred by law on the superintendent and shall before entering upon the duties of his office execute to the State of Alabama a bond in the amount of \$25,000.00 for the faithful performance of his duties.

Section 5-2-19: Limitation of liability of superintendent, members of banking board, or employees.

Neither the superintendent, any member of the banking board nor any employee of the banking department shall be personally liable for any acts done in good faith while in the performance of his duties as provided by law.

Section 5-2-20: Bank examiners - Oath; duties generally.

Every examiner shall, before entering upon the discharge of his duties, take and file with the superintendent an oath faithfully to discharge his duties as examiner. Each examiner shall act under the direction of the superintendent and shall examine fully into the books, papers and affairs of each bank which he may be directed by the superintendent to examine.

Section 5-2-21: Same - Commission.

The superintendent shall furnish to each examiner a commission under the signature of the superintendent and official seal of the state banking department, which commission the examiner shall exhibit to the bank, and to any officer or officers proposed to be examined as his authority for making the examination.

Section 5-2-22: Bond of examiners and office assistants.

Before entering upon the duties of their respective offices, all examiners and office assistants shall execute to the state of Alabama a bond to be fixed and approved by the superintendent, for the faithful performance of their duties.

Section 5-2-23: Counsel.

The attorney general without additional compensation shall render to the state banking department such legal services as the superintendent may request. The district attorney in each county in this state, when requested by the superintendent, shall as a part of his official duty and without compensation, represent the superintendent in any civil action that the superintendent may desire to bring, or that may be brought against the superintendent under the provisions of this title, in his respective circuit or county.

Section 5-2-40: Composition of bank board; chairman;

appointment and terms of office of members.

There shall be a banking board, which shall consist of the superintendent, who shall be ex officio a member and chairman of the board, and six persons who shall be appointed by the governor, by and with the consent of the senate. At the time of appointment members shall reside in different congressional districts. Members of the banking board shall be appointed for terms of six years each so that the terms of two of the six appointed members will expire on February 1 of each odd-numbered year. Upon the expiration of their terms of office, members of the board shall continue to serve until their successors are appointed and have qualified.

#### Section 5-2-41: Meetings of Board.

A meeting of the banking board may be had on call of the superintendent or any three members of the board. The superintendent shall give to each member of the banking board at least three days' notice of the time and place of any meeting of said board unless such notice is waived by all the members of the board.

#### Section 5-2-42: Same - Place.

The banking board shall hold its meetings within the state; provided, however, the banking board may hold a meeting without the state only if so required by the federal agency regulating banks.

#### Section 5-2-43: Quorum.

A majority of members of the banking board shall constitute a quorum for the transaction of any business.

#### Section 5-2-44: Removal of members; filling of vacancies; qualification of members.

If a vacancy shall occur in the appointed membership of the banking board, the vacancy shall be filled by appointment of the governor, and the appointee shall hold office until the senate meets and passes on the appointment. If the appointment is disapproved by the senate, another appointment must be made by the governor, and appointments must be made in like manner until an appointment is confirmed by the senate. The six appointed members of the banking board shall be persons of good character. Four of the six must have had at least five years' experience in the 10 years next preceding their appointment to the banking board either as an officer of a bank, a director of a bank or an examiner or other officer in a federal or state bank supervisory agency, including the office of the comptroller of the currency, the federal reserve system, the federal deposit insurance corporation and the banking departments of the various states or other equivalent

experience. Three of the members of the board, during the time they hold office, shall be connected with some state bank doing business as a bank under the laws of the state of Alabama as an officer or director of such bank.

#### Section 5-2-45: Compensation of members.

No person appointed as a member of the banking board shall receive any compensation for this service; except, that each appointed member of said banking board shall receive \$50.00 per day and expenses as paid state employees for each day said banking board is in session. The compensation of the appointed members of the banking board shall be paid as earned by the state treasurer on warrants drawn by the comptroller, in favor of each of them, which warrants are to be drawn on the certificate of the superintendent, which certificate shall certify that a meeting of said board was held, stating the time of meeting and stating the amount to which each member of the board is entitled.

### Chapter 3. EXAMINATIONS OF BANKS; REPORTS OF BANKS

#### Section 5-3-1: Required times; items to be examined.

(a) Every bank other than national banks shall be subject to the supervision and inspection of the superintendent and the regulations and supervision thereof. The superintendent shall, by competent examiner appointed by him, visit and examine every bank organized under the laws of Alabama at least once in each calendar year. Such examination of banks shall be at irregular intervals. On every such examination, inquiry shall be made as to the conditions and resources of the bank, the mode of conducting and managing the affairs of the bank, the action of its directors, the investment of the funds of the bank, the safety and prudence of the management of the bank, whether the requirements of its charter and of law have been complied with in the administration of the affairs of the bank and as to such other matters as the superintendent may prescribe. In addition, the superintendent may in like manner examine or cause to be examined the affairs of every bank and every affiliate of such bank except a national bank, a subsidiary of a national bank or a bank holding company, or a subsidiary of a bank holding company other than a bank organized under the laws of Alabama, whenever, in the judgment of the superintendent, the management and condition of the bank or affiliate is such as to render an examination of its affairs necessary or expedient, or whenever, in the opinion of the superintendent, the interest of the public demands an examination.

(b) The term "affiliate" shall include any corporation, business trust, association or other similar organization --

(1) Of which a bank, directly or indirectly, owns or controls either a majority of the voting shares or more than fifty per centum of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a bank who own or control either a majority of the shares of such bank or more than fifty per centum of the number of shares voted for the election of directors of such bank at the preceding election, or by trustees for the benefit of the shareholders of any such bank; or

(3) Of which a majority of the directors of the bank comprise a majority of the directors, trustees, or other persons exercising similar functions of the organization; or

(4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a bank or more than fifty per centum of the number of shares voted for the election of directors of a bank at the preceding election, or controls in any manner the election of a majority of the directors of a bank at the preceding election, or controls in any manner the election of a majority of the directors of a bank, or for the benefit of whose shareholders or members all or substantially all the capital stock of a bank is held by trustees.

Section 5-3-2: Acceptance of examinations and reports of federal bank regulatory agency, etc.

The superintendent is authorized to accept, in his discretion, in lieu of any examination authorized by the laws of this state to be conducted by his department the examination that may have been made of same within a reasonable period by a federal bank regulatory agency, provided a copy of said examination is furnished to said superintendent. Nothing in this section shall be construed to limit the duty of any banks in this state, deposits in which are to any extent insured under the provisions of the Federal Deposit Insurance Act or of any amendment of or substitution for the same, to comply with the provisions of said act, its amendments or substitutions or the requirements of said corporation relative to examinations and reports, not to limit the powers of the superintendent with reference to examinations and reports under

existing law.

Section 5-3-3: Disclosure of information obtained by superintendent, bank examiners, etc.

(a) Neither the superintendent, any member of the state banking board, nor any bank examiner or other state employee shall disclose the condition and affairs of any bank ascertained by an examination of such bank or report or give information as to persons who are depositors or debtors of a bank, except as authorized or required by law; provided, that this section shall not be construed to prevent bank examiners and other employees from reporting such information to the superintendent or such persons as he may lawfully designate.

(b) Notwithstanding the provisions of subsection (a) of this section, the superintendent, at his discretion, may disclose any such information to the members of the state banking board and confer with the members of such board regarding the same.

(c) The superintendent may furnish to the federal reserve, federal deposit insurance corporation, the comptroller of the currency or to any successor banking supervisory agency of the United States reports of examination and other data as the superintendent deems advisable.

(d) The superintendent may also furnish copies of his reports of examination and any other information to the board of directors of the bank which was examined and to any bank holding company owning more than fifty percent (50%) of the capital stock of such bank.

(e) Any reports or information furnished or disclosed under subsection (a), (b), (c), or (d) of this section shall remain the property of the banking department and may not be disclosed to any person other than the officers, directors, attorneys and auditors of such bank or bank holding company.

(f) Any person violating this section shall be guilty of a misdemeanor.

Section 5-3-4: Expenses of special examinations.

The expenses incidental to any special examination of banks or their affiliates shall be borne by the bank so examined, and such bank shall, on the call of the superintendent, pay into the treasury of Alabama, earmarked for the use of the banking department, within 10 days after said examination, an amount not exceeding the actual expenses of such examination, including per diem, travel expenses and the pro rata portion of the salaries of the state employees



engaged in making such examination.

**Section 5-3-5: Examination of agency of foreign banks.**

The superintendent shall have the power to examine or cause to be examined every agency located in this state of any foreign bank for the purpose of ascertaining whether it has violated any law of the state and for such other purposes and to such other matters as the superintendent may prescribe.

**Section 5-3-6: Powers of superintendent and bank examiners as to witnesses and production of documents.**

The superintendent and every examiner acting under the superintendent may administer oaths and may examine under oath any person whose testimony may be required on the examination of any bank, on the examination of any affiliate of a bank, or on the examination of any agency of any foreign bank and shall have authority and power to compel the appearance and attendance of any such person or the production of any records and documents of any bank, any affiliate of a bank or any agency of a foreign bank for the purpose of any examination and said attendance or production may be enforced by order of a circuit court.

**Section 5-3-7: False swearing, etc., before bank examiners or superintendent.**

Any person who willfully or corruptly swears or affirms falsely, when being examined under oath by any bank examiner or the superintendent in regard to any material matter or thing, shall be guilty of perjury.

**Section 5-3-8: Reports of superintendent and bank examiners as to examinations; publication of reports of examination for limited purposes.**

Each examiner shall report under oath to the superintendent the result of each examination made by him, which report the superintendent shall keep on file in his office for a period of not less than two years from the time of the making of such report. The superintendent shall have the power, and he is hereby authorized, to publish the report of his examination of any bank or any affiliate of a bank which shall not within one hundred and twenty days after notification of the recommendations or suggestions of the superintendent, based on said examination, have complied with the same to his satisfaction. Ninety days' notice prior to such publication shall be given to the bank or affiliate of the bank.

**Section 5-3-9: Loans, commissions, gifts, rewards, etc., to banking department employees from banks, employees, etc.**

(a) No officer, agent or employee of any bank shall offer or give to an employee of the state banking department or his family, and no such employer nor his family shall solicit or receive anything of value directly or indirectly from a bank, including a gift, favor, or service or a promise of future employment. Expenses associated with social occasions afforded such employee shall not be deemed a thing of value within the meaning of this section or prohibited hereby.

(b) No banking department employee shall, either directly or indirectly, be pecuniarily interested in nor borrow from a state bank. Debts now existing and any debt which may be owing at the time of employment to state banks may not be extended or renewed.

(c) Nothing herein shall be construed to prohibit the superintendent or a state banking department employee from owning a certificate of deposit in a state bank, however, no preferential rate shall be granted.

Section 5-3-10: False reports by bank examiners or superintendent.

Any bank examiner who shall make a report under oath as to the result of any examination made by him which is knowingly and willfully false shall be guilty of perjury.

Section 5-3-11: Reports of examination; meetings of banking Board—Confidential.

All reports of examination, records reflecting action of the bank taken pursuant thereto, and records and minutes of meetings of the banking board relating to a bank or several banks shall be confidential and shall not be subject to subpoena or inspection except by subpoena from a grand jury served on the superintendent.

Section 5-3-12: Semi-annual reports by banks - Required; verification.

All banks shall make to the superintendent, on the call of the superintendent for such report, not less than two reports during each year, according to the form which may be prescribed by the superintendent. Such report must be verified by the oath, or affirmation by the president or cashier or secretary and by at least three directors of the bank to be correct to the best of their knowledge and belief of each.

Section 5-3-13: Same - Special reports of banks.

The superintendent may call for a special report from any particular bank whenever, in his judgment, the same is deemed

necessary for the protection of the public or for a full and complete knowledge of the condition of the bank by the superintendent. A special report called for shall be made in all particulars as required by sections 5-3-14 and 5-3-15, but the superintendent shall not have the right to require that such report be published in a newspaper.

**Section 5-3-14: Same - Form; publication; penalty for late report.**

Each report required by section 5-3-12 shall exhibit in detail and under appropriate head the resources and liabilities of each bank at the close of business on any past day specified by the superintendent, not more than five (5) days prior to the issue of the superintendent's call, which day for report shall be uniform throughout the state and shall be transmitted by the bank to the superintendent within thirty (30) days after the receipt of a request or requisition therefor from him, and the same shall be published once by the bank in a newspaper in the city or town in which the bank is located; at the expense of said bank. If no newspaper is published in the town where a bank is located, publication must be made in a newspaper published in the nearest city. Proof of such publication shall be furnished by the bank to the superintendent in such manner as may be required by him, including the clippings of the report as published in the newspaper.

The superintendent shall prescribe to the bank the form for the published report made by the bank, which form shall contain such items as are deemed necessary by the superintendent to inform the public as to the financial condition of the bank. The superintendent shall see that each bank has published its report in accordance with the form prescribed and shall check such published report, using the newspaper clipping furnished him by the bank, with the sworn report of the bank filed with the superintendent.

If the report is not published by the bank, the superintendent shall, at the expense of the bank, publish the report. Each bank failing to transmit the report to the superintendent within thirty days after the receipt of a request shall pay \$100.00 for each day after said thirty days. Said fee may be waived by the superintendent upon a showing of good cause by the party requesting the waiver.

**Section 5-3-15: Same - Republication.**

If there are discrepancies in the published report of the bank and the sworn report furnished to the superintendent and if, in the opinion of the superintendent, the discrepancies are due to clerical errors, the superintendent shall notify the bank to republish the report so as to conform with the sworn report filed with the

superintendent, and the bank shall make such republication. If, in the opinion of the superintendent, the discrepancies in the published and sworn reports are not due to clerical errors, the superintendent shall forthwith publish a true and correct copy as shown by the sworn report filed with the superintendent, stating in such publication that the published report of the bank did not conform to the sworn report on file with the superintendent, and the bank shall pay the costs and expenses of such republication.

Section 5-3-16: Failure to pay for publication of bank report by superintendent.

Any bank which fails or refuses to pay the cost and expense of the publication by the superintendent of any report of the bank made in pursuance of the requirements of law shall pay to the state \$100.00 plus cost of publication.

Section 5-3-17: Verification of false report of condition of bank.

Any person who knowingly and willfully signs or verifies by oath or affirmation any false report of the condition of a bank to the superintendent, on call of the superintendent for such report, shall be guilty of perjury.

#### Chapter 4. RETENTION OF BANK RECORDS.

Section 5-4-1: Certain records to be retained; disposition of records after retention for prescribed period; reproduction of records and books.

(a) Every bank shall retain its business records for such periods as may be prescribed by regulation adopted pursuant to section 5-2-11.

(b) Any bank may dispose of any records which have been retained for the period prescribed by the superintendent.

(c) Any bank may cause any or all books and records at any time in its custody and books and records relating to trusts, estates and other fiduciary accounts, to be reproduced by photostatic, photographic, or microphotographic process, or by any other generally recognized reproduction process, and reproduction so made, whether enlarged or not, shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

Section 5-4-2: Applicability of chapter to state and national banks, etc.

This chapter shall be applicable to banks and, to the extent that they are not in contravention of any law or regulation of the United

States, the provisions of this chapter shall apply and inure to the benefit of national banking associations doing business in this state.

## Chapter 5. ORGANIZATION AND OPERATION OF BANKS

### Section 5-5-1: Procedure for incorporation - Application for permit.

(a) The proposed incorporators of a bank shall execute and acknowledge an application for a permit in writing in the form prescribed by the superintendent and shall file the same in the office of the state banking department, which application shall be signed by all of the incorporators requesting a certificate authorizing the proposed bank to transact business at the place, time and under the name stated in said application.

(b) At the time of filing said application, the applicant shall pay to the superintendent a filing fee.

(c) The superintendent shall designate the newspaper in which notice of intention to organize shall be published as required by section 5-5-2.

### Section 5-5-2: Same - Notice of intention to incorporate.

Before a bank can become incorporated under the laws of Alabama, a notice of intention to organize such bank shall be published once a week for three successive weeks in the newspaper designated by the superintendent. Such notice shall specify the names of the proposed incorporators, the name of the proposed corporation, the place where it proposes to do business and the amount of capital paid in with which it will commence business, provided however, where the superintendent determines an emergency exists which might cause or has caused closing or liquidating an existing bank, the superintendent may waive such advance publication requirement in order to permit formation of a new bank, and such publication shall occur after the new bank commences business.

### Section 5-5-3: Same - Affidavit of proposed incorporators; affidavit of proposed stockholders; submission of proposed certificate of incorporation; disclosure to stockholders.

After the notice of intention to incorporate has been published, the parties named as proposed incorporators in the published notice of the proposed corporation shall make an affidavit before some officer authorized to administer oaths and in said affidavit shall set forth the fact of publication of the notice as required by section 5-5-2, the names of the proposed stockholders, and the names of the proposed executive officers; and attach to the affidavit a copy of the

published notice; and each proposed stockholder shall make an affidavit which shall state for himself that he bona fide intends to become a stockholder in the amount subscribed for in the proposed bank. These affidavits shall be filed with the superintendent; and, at the time of filing these affidavits, the proposed incorporators shall submit to the superintendent the proposed certificate of incorporation of the bank. The proposed incorporators must also disclose in writing to each proposed stockholder such data as the superintendent may require.

Section 5-5-4: Same - Investigation as to fitness of stockholders and executive officers and necessity for banks.

The superintendent shall ascertain whether the character and general fitness of the persons named as proposed incorporators, proposed stockholders and proposed executive officers in the affidavit; and in the proposed certificate of incorporation are such as to command the confidence of the community in which such bank is proposed to be located, and the superintendent shall make this inquiry and determination, regardless of whether or not objections to the incorporation are filed with him. The superintendent shall investigate the convenience and need for a bank in the community where the same is proposed to be located and shall also ascertain if there is sufficient business in said community to support said bank.

Section 5-5-5: Same - Filing of objections to incorporation of proposed bank; investigation of objections.

Any bank doing business in the community or any reputable citizen in the community may file with the superintendent an objection to the incorporation of the proposed bank, provided that the superintendent may refuse to accept objections after 15 days from the last date of publication of the notice of intention to incorporate. If such objection is filed, the superintendent shall thoroughly and specifically inquire into and investigate the objections. The superintendent in his investigation may summon witnesses to appear before him, and may administer oaths to such witnesses, and may examine such witnesses under oath. The superintendent may in his discretion disclose in confidence to the proposed incorporators such information which relates to the proposed bank as he deems appropriate and the superintendent and employees of the banking department shall be immune from suit in their individual capacity because of such disclosure and information.

Section 5-5-6: Same - Certificate of superintendent of banks authorizing filing of certificate of incorporation.

If the superintendent shall be satisfied from his investigation that the character and general fitness of the persons named as stockholders and executive officers are such as to command the confidence of the community in which such bank is proposed to be located and that there is sufficient business to support said bank in said community and that the convenience and needs of said community shall be served, he shall pass upon the sufficiency of the certificate of incorporation; and, if he approves the certificate he shall issue under his hand and official seal a certificate authorizing the proper official or officials to file the certificate of incorporation upon proof of payment of subscription to the capital subscribed for as required by law. The superintendent shall transmit the proposed certificate of incorporation, together with said certificate made by him to the official or officials with which a certificate of incorporation would be filed under the business corporation laws of this state, and the superintendent shall keep on file in his office a duplicate of the certificates made by him.

**Section 5-5-7: Same - Filing and recordation of certificate of incorporation.**

The official or officials designated by the business corporation laws to file certificates of incorporation shall, upon the certificate of incorporation being duly signed by the incorporators and proof being duly made as required by law of the payment of subscription to the capital, file and record the certificate of incorporation and other papers necessary or deemed necessary in the incorporation of the bank, together with the said certificate issued by the superintendent.

**Section 5-5-8: Same - Refusal to permit incorporation; appeal from refusal to banking board.**

If the superintendent is of the opinion from his investigation that the character and general fitness of the persons names as stockholders or executive officers are such as not to command the confidence of the community in which such bank is proposed to be located or that there is not a sufficient business to support said bank in said community or that the convenience or needs of said community shall not be served, he shall issue under his hand and official seal, a refusal to permit the incorporation of the proposed bank and a copy of his refusal shall be filed in the superintendent's office, and the refusal and the proposed certificate of incorporation shall be returned to the proposed incorporators or their agent. No right of appeal to the banking board exists except upon refusal of the superintendent to permit incorporation. Any proposed stockholder or individual may appeal from such refusal of the superintendent by written notice of appeal filed with the

superintendent within 28 days of the notice of refusal to the banking board. The banking board may take evidence and examine witnesses with respect to the propriety and justice vel non of said refusal and may make such findings and orders as may be necessary either to confirm said refusal or to permit the incorporation of such bank. Full power and authority is hereby vested in the state banking board to review, revise, and reverse or confirm any ruling or finding or order of the superintendent denying the establishment of state banks and to take evidence and examine witnesses of all parties touching such matters. The banking board will notify all parties of its decision.

**Section 5-5-9: Same - Judicial review.**

Nothing in this chapter shall be construed to prevent the circuit court of Montgomery County, as provided by law, from reviewing and reversing either the action of the banking board in granting or refusing a charter or permitting the organization of a new bank or the action of the superintendent in granting a charter or permitting the organization of a new bank. Written notice of appeal must be filed with that court within 28 days of the order from which the appeal is taken. Upon proper proceedings, the court, after full hearing of the matters at issue, shall enter an order or judgment reversing or affirming the order appealed. The granting of a charter or permit by the superintendent or granting or refusal to grant a charter or permit by the banking board shall be taken as prima facie just and reasonable.

**Section 5-5-10: Permit to transact business - Required.**

No bank shall engage in the banking business until it shall have received from the superintendent a permit to transact a banking business. Any person who shall hereafter transact any business as an officer or agent of any bank hereafter incorporated, before such bank is authorized to transact business as a bank by the permit of the superintendent, shall be guilty of a misdemeanor and upon conviction, shall be fined not less than \$1,000.00 nor more than \$10,000.00. Each day on which said person transacts such business shall be a separate offense. The superintendent is empowered to seek an injunction from any court of competent jurisdiction enjoining such transaction of business.

**Section 5-5-11: Same - Examination; issuance and recordation of permit.**

The superintendent shall, before issuing his permit to any bank to commence business under the application provided for in section 5-5-1, examine or cause an examination to be made in order to



ascertain whether the requisite capital of such bank has been paid in cash. If the superintendent shall find that the requisite capital has been paid in cash, that the certificate of incorporation has been approved and recorded and that all other requirements for the issuance of the permit have been met, he shall issue his permit authorizing such bank to commence business at the place, time and under the name as stated in the application for the permit and to transact business in this state as a bank, which permit shall be recorded in the office of the superintendent in a book to be kept by him for that purpose, and a certified copy thereof shall be filed and recorded at the expense of the bank in the office of the official or officials with which the certificate of incorporation of the bank has been filed.

**Section 5-5-12: Membership in federal deposit insurance corporation, etc.**

All banks now or hereafter operating under the laws of this state shall be members of the federal deposit insurance corporation or such other agency as may be created to insure the deposits of such bank.

**Section 5-5-13: Filing fee; other fees.**

(a) The banking board shall from time to time fix the amount of the fee for filing an application for a new bank, and for:

- (1) establishment of a branch of an existing bank;
- (2) conversion of a national bank to a state bank;
- (3) a merger of two or more existing banks;
- (4) establishment and operation of any facility authorized under the provisions of sections 5-2-9 and 5-2-10;
- (5) acquisition of a majority of voting stock of a bank;
- (6) any examination necessitated by the foregoing; and
- (7) other actions that require the approval of the superintendent or the banking board.

(b) All such fees shall be paid into the special fund set up by the state treasurer pursuant to section 5-2-3.

**Section 5-5-14: Capital - Minimum amount required for incorporation of bank.**

(a) No bank hereafter organized under the laws of Alabama shall have total initial capital accounts actually paid in of less than

\$800,000.

(b) The superintendent may require a higher amount of capital accounts and where the bank will have no significance except as a means of acquiring the assets or the voting shares of an existing bank, the superintendent may require a lesser amount of capital accounts.

Section 5-5-15: Same - Increase or decrease.

Any bank shall with the consent of the superintendent have power and authority to increase or decrease its authorized capital in the manner provided for a corporation under the business corporation laws of this state.

Section 5-5-16: Issuance of capital notes and debentures.

No bank shall issue capital notes or capital debentures except with the prior written approval of the superintendent under such conditions as he may impose.

Section 5-5-17: Amendment of certificate of incorporation; approval of amended certificate of incorporation.

A bank may amend its certificate of incorporation in the manner provided by the laws governing business corporations. No proposed amendment of a certificate of incorporation of a bank is valid unless approved in writing by the superintendent and may not be recorded unless such written approval accompanies the proposed amendment.

Section 5-5-18: Powers of banks.

Corporations formed for the purpose of doing business as a bank may:

- (1) discount bills, notes or other evidences of debt;
- (2) receive and pay out deposits, with or without interest, pay checks, and impose charges for any services;
- (3) receive on special deposit money, bullion or foreign coins or bonds or other securities;
- (4) buy and sell foreign and domestic exchanges, gold and silver bullion or foreign coins, bonds, bills of exchange, notes and other negotiable paper;
- (5) lend money on personal security or upon pledges of bonds, stocks or other negotiable securities;
- (6) take and receive security by mortgage, security agreement or otherwise on property, real and personal;

(7) become trustees for any purpose and be appointed and act as executors, administrators, guardians, receivers, or fiduciaries upon receiving the prior written approval of the superintendent under § 5-14-1;

(8) • lease real and personal property upon specific request of a customer, provided such banks must comply with any applicable Alabama laws regulating leasing real property or improvements thereon to others.

(9) perform computer, management and travel agency services for others;

(10) subscribe to the capital stock and become a member of the federal reserve system and comply with rules and regulations thereof; and

(11) do any business and exercise any powers incident to the business of banks.

#### Section 5-5-19: Reserves.

(a) A bank which is not a member of the federal reserve system shall maintain at all times a reserve fund in an amount fixed by resolution of the banking board. Such reserve on demand deposits shall not exceed 14 percent and shall be not less than seven percent of the total of such demand deposits; provided, that in the case of banks in reserve cities, as now or hereafter defined by proper federal laws or regulations, the maximum amount of reserves which may be required to be maintained against demand deposits shall be 22 percent. Such reserve on time and savings deposits shall not exceed six percent and shall be not less than three percent of the total of such time and savings deposits. The amount of the required reserve for each day shall be computed on the basis of average daily deposits covering such biweekly or shorter periods as shall be fixed by resolution of the banking board. This reserve shall consist of cash on hand and demand deposits due from other banks.

(b) A bank shall give written notice to the superintendent, in the manner prescribed by the superintendent for such notice, of any deficiency in the amount or form of the reserve fund required by this section within three business days after the close of any scheduled averaging period during which deficiency occurs. Such bank shall pay to the superintendent a fee because of this deficiency which shall be fixed by the banking board. All such fees shall be paid into the special fund set up by the state treasurer pursuant to section 5-2-3.

(c) A bank which is a member of the federal reserve system

shall maintain at all times a reserve fund in accordance with the requirements applicable to a member bank under the laws of the United States.

**Section 5-5-20: Branch banks.**

No bank, or any officer, agent or director thereof, shall be permitted to establish a branch or office for the transaction of the banking business other than at its principal place of business, in any county in this state, except as has been heretofore or which may hereafter be provided by local laws or general laws of local application. All existing branch banks are hereby validated.

**Section 5-5-21: Surplus; restriction on dividends.**

Every bank shall transfer to surplus each year at least ten percent of its net earnings until the surplus of such bank shall be equal to at least twenty percent of its capital, and it shall be unlawful for such bank to declare or pay a dividend in excess of ninety percent of the net earnings of such bank until the surplus of such bank shall be equal to at least twenty percent of capital.

Thereafter the prior written approval of the superintendent shall be required if the total of all dividends declared by the bank in any calendar year shall exceed the total of its net earnings of that year combined with its retained net earnings of the preceding two years, less any required transfers to surplus. No dividends, withdrawals or transfers may be made from the bank's surplus without the prior written approval of the superintendent.

For the purpose of this section the term "net earnings" shall mean the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets, after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all federal, state and local taxes.

**Section 5-5-22: Limits of indebtedness.**

(a) No bank shall make a loan to any one person which, when combined with all other loans to such person, would cause total loans to that person to exceed:

(i) Ten percent of the capital accounts of the bank, if such loans are not secured, or

(ii) Twenty percent of the capital accounts of the bank, if loans are in excess of ten percent of capital are fully secured.

No loans which would exceed the limitation set forth in (a)(i) shall be made unless duly authorized or approved by the board of

directors of the bank, a committee of the board of directors of the bank or a loan committee, with such authorization or approval recorded in minutes of the meeting at which the authority was given.

(b) (i) As used in this section, the term "capital accounts" shall include capital, surplus and undivided profits as defined in Section 5-1-2, together with obligations of the bank subordinated in priority upon liquidation or dissolution to the claims of depositors of the bank. The term shall also include such reserves as may from time to time be permitted to be included by the superintendent.

(ii) In calculating total loans to a person under this section the following rules shall govern:

(A) In computing the total liabilities of any person to a bank, there shall be included all liabilities to the bank as maker or acceptor of paper discounted with or sold to such bank and the liability of the indorser, drawer, or guarantor who obtains a loan from or discounts paper with or sells paper under his guaranty or repurchase agreement to such bank.

(B) In computing the total liabilities of any person to a bank, there shall be included all liabilities to the bank of any partnership or any unincorporated association of which such person is a member, any loans made for such person's benefit or for the benefit of such partnership or unincorporated association, and any loans made to, or for the benefit of, a corporation of which such person owns thirty-five percent or more of the capital.

(C) In computing the total liabilities of any partnership or unincorporated association to a bank, there shall be included all liabilities of its individual members to such bank, loans made for the benefit of such partnership or unincorporated association or any member thereof, and any loan made to, or for the benefit of, any corporation of which any member owns thirty-five percent or more of the capital.

(D) In computing the total liabilities of any corporation to a bank, there shall be included all loans made for the benefit of the corporation, and all loans to, or for the benefit of any partnership or unincorporated association, or any member thereof, who owns thirty-five percent or more of the capital of such corporation.

(E) In computing the total liabilities of any person to a bank, direct or indirect loans to such person's spouse will be aggregated and treated as loans to such person until the bank can satisfy the superintendent that each spouse has a separate net worth and such net worth of each is not dependent on decisions made or actions

taken by the other.

(c) There shall be excluded from the limits set forth in subsection (a) of this section the following:

(i) Indebtedness evidenced by commercial paper drawn in good faith against actually existing values and secured by a security interest upon goods in transit with shippers' order, bills of lading or comparable instruments attached;

(ii) Deposits in a reserve depository or a federal reserve bank;

(iii) Loans to the extent secured by;

(A) Obligations of, and obligations guaranteed by the United States, the State of Alabama, any political subdivision of the State of Alabama, any public body of the State of Alabama or a public body of any political subdivision of the State of Alabama if the obligations or guarantees are general obligations thereof;

(B) Obligations which the bank would be authorized to acquire without limit as investment securities;

(C) Guarantees or commitments or agreements to take over or purchase made by any department, bureau, board, commission or establishment of the United States or any corporation owned directly or indirectly by the United States; or

(D) At least a like amount of cash or deposits held by the lending bank.

(iv) Investment securities acquired by the bank.

(v) Such other loans, liabilities or transactions as shall from time to time be established by regulations of the state banking department.

(d) It shall be the duty of the superintendent to order any loans in excess of the amount fixed in this section reduced to the legal limit or the excess charged to profit and loss if, in his opinion, such excess is not well secured, and if such reduction shall not be made within 30 days after such notification, to proceed as in other cases provided for violation of the orders of the superintendent.

Section 5-5-23: Investments and loans with respect to housing.

(a) Banks, insurance companies and savings and loan associations are authorized:

(1) To make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance and to obtain such insurance; and

(2) To make such loans secured by real property or leasehold as the federal housing administrator insures or makes a commitment to insure and to obtain such insurance.

(b) It shall be lawful for banks, insurance companies or savings and loan associations to purchase, invest in and dispose of bonds or notes secured by mortgages issued by the federal housing administrator and in securities issued by national mortgage associations.

(c) No law of this state requiring security upon which loans or investments may be made, or prescribing or limiting interest rates upon loans or investments, or prescribing or limiting the period for which loans or investments may be made shall be deemed to apply to loans or investments made pursuant to the foregoing paragraph.

(d) Any bank or trust company purchasing, investing in or otherwise holding in any fiduciary capacity for the benefit of any ward or other beneficiary any mortgage loan insured by the federal housing administrator shall be entitled to receive and retain for its own individual or corporate account any service charge allowed by said administrator on account of the servicing of the insured mortgage loan. Such service charge shall be considered as a reimbursement to such fiduciary for the additional expense of handling for the mortgagor and the federal housing administrator monthly collections on such mortgage loan and payments of taxes, insurance and other charges on the property securing such loan as such administrator and regulations may require.

(e) Wherever, by statute of this state, collateral is required as security for the deposit of public or other funds, or deposits are required to be made with any public official or department, or an investment of capital or surplus or a reserve or other fund is required to be maintained, consisting of designated securities, notes and bonds insured by the federal housing administrator and debentures issued by the federal housing administrator and obligations of national mortgage associations shall be acceptable at face value for such purposes.

**Section 5-5-24: Purchase of bonds issued under federal farm credit act as security for public funds.**

(a) For the purpose of promoting and encouraging agricultural production by providing cheap money for the farmer by the sale of bonds issued under the provisions of any federal Farm Credit Act by the federal land banks, said bonds so issued are designated as security for all character of public funds, especially for securing deposits by designated depositaries for the funds of the

state of Alabama and of the various counties, municipalities and districts of Alabama.

(b) Insurance companies organized under the laws of the state of Alabama may purchase such bonds with their capital stock and also with the accumulations of such companies, including the reserve thereof, to an amount not exceeding 25 percent thereof.

(c) Banks may purchase such bonds out of their funds to an amount not exceeding 25 percent of their capital and surplus.

Section 5-5-25: Acceptance of drafts or bills of exchange arising from transactions involving shipment of goods - authority.

Any bank in Alabama may accept drafts or bills of exchange drawn upon it, having not more than six months' sight to run, exclusive of days of grace, which grew out of transactions involving the importation or exportation of goods or which grew out of transactions involving the domestic shipment of goods, if shipping documents conveying or securing title are attached at the time of acceptance or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples. The bank shall keep a careful record of all such acceptances and show the same as a liability on its general books.

Section 5-5-26: Same - Limitations.

No bank shall accept, whether in a foreign or domestic transaction, for any one person, company, firm or corporation, to an amount equal at any time in the aggregate to more than 10 percent of its paid up and unimpaired capital and surplus, unless the bank is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance, and no bank shall accept such bills to an amount equal at any time in the aggregate to more than one half of its paid up and unimpaired capital stock and surplus. Banks which are members of the federal reserve system may accept such bills to an amount not exceeding at any time in the aggregate 100 percent of their paid up and unimpaired capital and surplus, but the aggregate of acceptances growing out of domestic transactions shall in no event exceed 50 percent of such capital and surplus.

Section 5-5-27: Loans secured by own stock; purchase of own stock; ownership of capital stock of other banks.

No bank shall make a loan taking its own stock as security therefor or directly or indirectly purchase shares of its own stock, except in pursuance of provisions of law for reducing its capital



stock. No bank shall subscribe for or own capital stock in any other bank except in the usual course of business in payment of an indebtedness or in order to prevent a loss on a debt owing to it and the bank must sell said stock within one year from the time the same is acquired unless this time period is extended by the superintendent; provided, however, that nothing in this section shall prohibit the ownership by any bank of any stock in another bank acquired prior to the effective date of this Act.

**Section 5-5-28: Pledge of assets.**

Any bank is authorized to pledge acceptable assets as security for deposits of public funds, heretofore or hereafter made, by the state or any political subdivision of the state or any agency or other government instrumentality of such subdivision, including any county, municipal corporation, county, city or other public board of education, including any custodian or treasurer of county, city or other public school funds, any improvement authority heretofore or hereafter incorporated under chapter 7 of Title 39 of this Code or any public corporation, including each board, authority or district heretofore or hereafter organized or created in this state pursuant to authorization or determination by any municipality or municipalities or by any county or counties or the governing body of any one or more thereof. The word "deposits," as used in this section, means deposits of all kinds, including, without limiting the generality of the foregoing, deposits in savings accounts, deposits in checking accounts, deposits in special trust funds, demand deposits, special deposits, time deposits on which interest is to be paid and deposits for which a bank has issued its certificates of deposit.

**Section 5-5-29: Security not required when deposits insured.**

Notwithstanding any provision of law of this state or of any political subdivision of the state or any agency or governmental instrumentality of such subdivision requiring security for deposits in the form of collateral, surety bond or in any other form, security for such deposits shall not be required to the extent said deposits are insured by the Federal Deposit Insurance Corporation or any successor thereto.

**Section 5-5-30: Transactions of business on legal holidays; use of automatic unmanned cash dispensing machine or other instrumentality as authorized by section 5-2-9 and section 5-2-10.**

(a) Any bank may lawfully receive deposits or pay checks or sight drafts and transact any other business on any legal holiday, excepting Sunday, in the same manner and way that it is

authorized to do on any legal banking day.

(b) Nothing in this section, nor any other law of this state, shall be considered to prohibit a bank the use of an automatic unmanned cash dispensing machine, or other instrumentality as authorized per section 5-2-9 and section 5-2-10, 24 hours each day of the week including Sunday, and the use of such machine or other instrumentality by any bank is hereby authorized, provided such machine or other instrumentality and the use thereof is first approved by the appropriate bank regulatory authority, if such approval is required.

**Section 5-5-31: Liability for transactions on legal holidays.**

A bank shall be liable for and chargeable with deposits received and other business transacted on a legal holiday the same as if such deposit were received or business transacted on a legal banking day and shall have the same protection for payment of checks or sight drafts and business on a holiday that it would have if such payments were made and such transactions had on a legal banking day.

**Section 5-5-32: Closing of banks, etc., permitted on one business day of each week.**

(a) Any bank or any branch or branches thereof may close on any one business day of each week and shall have this right even though there shall fall in such week a holiday as established in 1-3-8. If the superintendent should determine that an emergency should exist, he may authorize any bank or any branch or branches thereof to close on one or more business days.

(b) Any such day upon which such bank or any branch or branches thereof may elect to close shall with respect to such institution be deemed a holiday for all purposes and not a business day. All acts omitted or done by such bank or any branch or branches thereof upon any such day shall have the same consequence and effect as if omitted or done upon the next succeeding business day, and any act authorized, required or permitted to be performed at or with respect to any such bank or any branch or branches thereof on the days so fixed may be performed on the next succeeding business day, and no liability or loss of rights of any kind shall result from such delay to any person or to any bank, or any branch or branches thereof.

**Section 5-5-33: Bank to pay checks drawn on it at par.**

Any bank shall pay all checks drawn on it and transmitted in a cash letter at par and shall make no charge for the payment of such

checks the first time presented to it for payment.

**Section 5-5-34: Payment of postdated checks.**

Whenever a postdated check is drawn upon any bank, the bank upon which the check is drawn shall not be liable to the drawer of said check because of paying the check prior to the date thereof, unless there appears written across the face of the check in bold type or writing the word POSTDATED.

**Section 5-5-35: Agreements between principal and sureties on bond for deposit of money and assets in bank, etc.**

It shall be lawful for any party of whom a bond, undertaking or other obligation is required to agree with his surety or sureties for the deposit of any or all money and assets for which he and his surety or sureties are or may be held responsible with a bank, or with other depository approved by the court or a judge thereof, if such deposit is otherwise proper, for the safekeeping thereof, and in such manner as to prevent the withdrawal of such money or assets or any part thereof, without the written consent of such surety or sureties, or an order of court or a judge thereof made on such notice to such surety or sureties as such court or judge may direct; provided, however, that such agreement shall not in any manner release from or change the liability of the principal or sureties as established by the terms of the bond.

**Section 5-5-36: Notice upon maturity of certificate of deposit issued for more than ninety days.**

In the case of certificates of deposit issued for more than ninety (90) days which are automatically renewable, a bank shall send within a reasonable period, but in no event less than five (5) days before the next maturity, a written notice to the last known address of record.

**Section 5-5-37. Rights of minors.**

A minor may make, in her or his own name, a deposit in any bank, and such deposit may be general or special, and shall be paid only to such minor, or upon his or her order, and not to the parents or guardians of such minor, and such payment shall be valid as against the minor child, his or her parents or guardian.

**Section 5-5-38: Disposition of small deposits of deceased person - To whom payable; when bond required.**

Whenever a person shall die leaving deposits in a bank not exceeding \$5,000.00 in the aggregate, the bank may in its discretion discharge itself from liability thereafter by paying the deposits to

the surviving spouse of the deceased or, if there is none, to the adult children and to the person having the actual custody and control of the minor child or children of the deceased; provided, that such person, if not the legal guardian, shall execute to the probate judge of the county where the principal office of the bank is located a bond in the penal sum of double the amount of the portion of such deposit he receives for the faithful accounting of the money so received, which shall be approved by said probate judge; or, if there is no surviving spouse or child or children, to the person or persons who, under the laws of Alabama, are the next of kin and inherit the personal property of the deceased. The bank shall be fully protected by requiring an affidavit by some reputable citizen as to the facts specified.

**Section 5-5-39: Same - Time for payment; when payment prohibited.**

No payment shall be made pursuant to section 5-5-37 by the bank before the lapse of 60 days from the date of the death of the deceased, and no payment shall be made by the bank under this section if letters testamentary or of administration have issued to a personal representative or a proceeding is pending in the court in this state which would have jurisdiction of the administration of the estate. The bank shall be fully protected by requiring an affidavit by some reputable citizen as to the facts specified.

**Section 5-5-40: Disposition of deposit in trust for another upon death of trustee.**

Whenever any deposit shall be made in any bank by any person in trust for another and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to and received by the bank, in the event of the death of the trustee, such deposit or any part thereof, together with any interest thereon, may be paid to the person for whom said deposit was made, whether a minor or adult, and the receipt or acquittance of such person shall fully relieve and release said bank from all liability.

**Section 5-5-41: Payment of deposits made in names of two persons upon death of one; more than two persons with provision for survivorship.**

(a) Any deposit heretofore or hereafter made in any bank in the names of two or more persons payable to any of such persons, upon the death of either of said persons, may be paid by the bank to the survivors jointly, irrespective of whether or not (i) the form of the deposit or deposit contract contains any provision for survivorship, (ii) the funds deposited were the property of only one

said person, (iii) there was at time of the making of such deposit any intention on the part of the person making such deposit to vest the other with a present interest therein, (iv) only one of said persons during their joint lives had the right to withdraw such deposit, (v) there was any delivery of any bank book, account book, savings account book, certificate of deposit or other writing by the person making such deposit to the other of such persons, or (vi) any other circumstances. The bank in which such deposit is made may pay such deposit, or any part thereof or interest thereon, to either of said persons, or if one is dead, to the surviving of them, and such payment shall fully release and discharge the bank from all liability for any payment so made.

(b) The provisions of this section shall apply to savings accounts, checking accounts and certificates of deposit and shall also apply to any deposit made in the names of more than two persons where there is an express written provision for survivorship in the deposit contract.

(c) Nothing contained in this section shall be construed to prohibit the person making such deposit from withdrawing or collecting the same during his lifetime; nor shall anything contained in this section prohibit any person or persons making a deposit in the names of more than one person from providing for disposition of such deposit and interest thereon in a manner different from that provided above in this section, provided such different manner of disposition is expressly provided for in writing in the deposit contract.

#### Section 5-5-42: Adverse claims to deposits.

Notice to any bank of an adverse claim to a deposit standing on its books to the credit of any person shall not be effectual to cause said bank to recognize said adverse claimant unless said adverse claimant shall also either procure a restraining order, injunction or other appropriate process against said bank from a court of competent jurisdiction in a civil action therein instituted by such claimant wherein the person to whose credit the deposit stands is made a party and served with summons or shall execute to said bank in form and with sureties acceptable to it, a bond indemnifying said bank from any and all liability, loss, damage, costs and expenses for and on account of the payment or recognition of such adverse claim or the dishonor of or failure to pay the check or failure to comply with other order of the person to whose credit the deposit stands on the books of said bank; provided, that this section shall not apply in any instance where the person to whose credit the deposit stands is a fiduciary for such adverse claimant and the facts constituting such relationship, as well as the facts

showing reasonable cause of belief on the part of the said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant.

**Section 5-5-43: Disclosure of customer financial records.**

A bank shall disclose financial records of its customers pursuant to a lawful subpoena, summons, warrant or court order issued by or at the request of any state agency, political subdivision, instrumentality, or officer or employee thereof and served upon the bank. No bank, director, officer, employee or agent thereof shall be held civilly or criminally responsible for disclosure of financial records pursuant to a subpoena, summons, warrant or court order which on its face appears to have been issued upon lawful authority.

**Section 5-5-44: Acquisition of majority of voting shares of a bank.**

(a) No person may acquire any voting security of a state bank or of any corporation or other entity owning voting securities of a state bank if after the acquisition such person would own or possess the power to vote a majority of the voting securities of such bank, unless an application is filed with the superintendent for his review of the proposed transaction and for his action, if any, as provided in this section.

(b) The application shall be on a form prescribed by the superintendent and shall be made under oath. The application must contain all information that the superintendent by regulation requires to be furnished in an application, as well as any information that the superintendent orders to be included in the particular application being filed and shall be accompanied by the filing fee prescribed by the banking board. No acquiring party may acquire control of a bank unless the superintendent has approved the acquiring party's acquisition plan. The acquiring party shall file its application with the superintendent, and the application shall, except to the extent expressly waived by the superintendent, contain the following information:

(1) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a state or federal court.

(2) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately

preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety days prior to the date of the filing of the notice.

(3) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.

(4) The identity, source and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

(5) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

(6) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

(7) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

(8) If any tender offer, request or invitation for tenders, or other agreement to acquire control is proposed to be made by means of a registration statement under the Federal Securities Act of 1933, as amended, or under circumstances requiring the disclosure of similar information under the Federal Securities Exchange Act of 1934, as amended, or in an application filed with the federal deposit insurance corporation, the board of governors of the federal reserve system or the securities commissioner of Alabama requiring similar disclosure, the superintendent may accept the registration statement or application with any additional information as the superintendent may require in lieu of the requirements of this section.

(9) If, while an application is pending, any material change occurs in the facts stated in the application, the acquiring party within ten (10) days after the change shall file with the superintendent an amendment to the application describing the change in accordance with rules the superintendent may adopt.

For the purposes of this section, the term "person" means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein.

Information obtained by the superintendent under this section is confidential and may not be disclosed by the superintendent or any officer or employee of the state banking department, except that the superintendent may in his discretion, if he deems it necessary or proper to the enforcement of the laws of this state or the United States and to the best interest of the public, divulge such information to any department, agency, instrumentality of the state or federal government.

(c) The superintendent shall issue an order denying an application if he finds that:

(1) the financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors or stockholders of the bank;

(2) the competence, experience or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors or stockholders of the bank, or in the interest of the public to permit such person to control the bank; or

(3) any acquiring person neglects, fails or refuses to furnish the superintendent all the information required by him.

(d) If an application filed under the section is not denied by the superintendent within thirty (30) days after it is filed, the transaction may be consummated. The superintendent may, before the expiration of the thirty-day period, give the applicant written notice that the application will not be denied, in which case the transaction may be consummated. Any agreement entered into by the applicants and the superintendent as a condition that the application will not be denied is enforceable against the applicant and the bank.

(e) From any final order denying the application the applicant may appeal the decision in the manner and through the



procedures established in sections 5-5-8 and 5-5-9 for the denial of incorporation of a bank.

(f) This section does not apply to:

(1) the acquisition of securities in connection with the exercise of a security interest or otherwise by way of foreclosure on default in the payment of a debt previously contracted for in good faith;

(2) transactions requiring the prior approval of the board of governors of the federal reserve system under the Bank Holding Company Act of 1956, as amended (12 U.S.C.A. § 1841, et. seq., and 26 U.S.C.A. § 1101, et. seq.);

(3) transactions requiring prior approval of the bank supervisory authorities under the Bank Merger Act, as amended (12 U.S.C.A. § 1828(a)).

(4) acquisitions or transfers by gift, operation of law or by will or intestate succession; or

(5) any transaction which the superintendent by regulation or order may exempt as not being contemplated by the purposes of this section or the regulation of which is not necessary or appropriate for the protection of the bank.

(g) If it appears to the superintendent that any person has committed or is about to commit a violation of this section or any regulation or order of the superintendent adopted under it, the attorney general on behalf of the superintendent may apply to the circuit court of Montgomery County for an order enjoining the violation and for any other equitable relief as the nature of the case may require.

(h) Fees collected under this section shall be paid into the special fund established by the state treasurer pursuant to section 5-2-3.

#### Section 5-5-45: Initiation of run on banks, etc.

Any person or persons whose business it is, either as individuals, agents or officers of banks, to receive checks, drafts and demands, when the same are not entitled to days of grace, upon any bank, and who receives the same, for collection and retains the same for an unreasonable time, without making known to the drawee bank that such collections and demands are held for collection, in order to accumulate a large amount for the purpose of starting what is commonly called a "run" on such bank, or for the purpose of embarrassing such drawee bank shall be guilty of a

misdemeanor.

Section 5-5-46: False, etc., statements, etc. affecting financial standing of bank.

Any person who shall willfully and maliciously make, circulate or transmit to another or others any false, libelous or slanderous statement, rumor or suggestion written, printed or by word of mouth which is directly or by inference derogatory to the financial condition, or affects the solvency or financial standing of any bank, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor shall be guilty of a misdemeanor.

Section 5-5-47: Liability of directors for knowing and willful violation.

If the directors of any bank shall knowingly and willfully violate or knowingly and willfully permit any of the officers, agents or employees of the bank to violate any of the provisions of Title 5, each and every director participating in or assenting to the same shall be held liable in his personal and individual capacity for all damages which the bank, its stockholders or any other person shall have sustained in consequence of such violation.

## Chapter 6 - DIRECTORS, OFFICERS, AND EMPLOYEES

Section 5-6-1: Directors of banks to own stock in bank; citizenship and residence of directors.

Every director of a bank shall be a citizen of the United States and shall be the owner and holder of shares of stock in the bank or parent bank holding company having a par value of at least two hundred dollars, and every such director shall hold such shares in his own name, unpledged and unencumbered in any way except statutory lien which might attach in favor of such corporation. No person convicted of a felony or a crime involving moral turpitude shall serve as a director. At least fifty-one percent of the directors of every bank shall be residents of the state and at least seventy-five percent of the directors of every such bank shall be residents of this state or residents of a state contiguous to Alabama. Any director at any time violating any of the provisions of this section shall be removed from office by the board of directors or by the superintendent when the facts are made known to him.

Section 5-6-2: Oath of directors.

Every such director shall, within 30 days after his election, take and subscribe, in duplicate, an oath that he will diligently and honestly perform his duties as such director, not knowingly violate

or permit to be violated any provision of the banking law of this state and that he is the owner in good faith of the shares of stock of the bank or company required to qualify him for such office, standing in his own name on its books. A copy of such oath shall be forthwith filed with the superintendent of banks. No director shall perform the duties of his office until such oath is made, and in case a director fails to make such oath, his place on the board shall be declared vacant and his successor elected as prescribed by the bylaws of the bank, such successor being required to have the same qualifications and take the same oath as provided by this chapter.

**Section 5-6-3: Meeting of board of directors; bonds of officers and employees of banks.**

The board of directors of any bank shall hold regular meetings at such time as may be fixed by the bylaws, at least once every two months, and shall at all times be subject to call by the president or by any two members of the board. Notwithstanding contrary provision in the certificate of incorporation or bylaws of a bank, meetings of the board of directors may be called by the superintendent and held at any place he requires. The board of directors, at their first meeting after election, shall fix and prescribe the amount of bond that shall be required of each officer and employee of the bank, and shall not be less than the amount that may have been fixed or that may be hereafter fixed by the superintendent for officers and employees of banks of the class to which it belongs. They shall require bonds, either individual or in blanket form, from each and every officer and employee handling money, checks, securities or other valuable papers of the bank, such bond to be made by a bonding company authorized to make such bonds in this state to be approved by the board of directors and to be in such form as may be approved by the superintendent. The superintendent or the board of directors of the bank may require an increase of the amount of such bond or other additional bond and securities, when he or they deem it necessary for the better protection of the bank and its depositors. Directors, as such, shall not be required to give bond.

**Section 5-6-20: Declaration of illegal dividends, discounts of notes, etc.**

Any director of a bank who knowingly concurs in any vote or act of the directors of such bank by which it is intended to pay a cash dividend except from the undivided profits arising from the business of the bank in violation of section 5-5-21, or to make or approve a loan with the stock of the lending bank as security therefor; to divide, withdraw or in any manner pay to the stockholders or any of them any part of the capital of the bank, or to

purchase or reduce such capital, except in pursuance of law; or to discount or receive any note or other evidence of debt in payment of any installment of purchase price of capital actually called in and required to be paid, or with intention to provide the means of making such payment; or to receive or discount any note or other evidence of debt with the intent to enable any stockholder to withdraw any part of the money paid in by him on his stock; or to apply any portion of the funds of such corporation except as allowed by law, directly or indirectly, to the purchase of shares of its stock, is guilty of a misdemeanor.

**Section 5-6-21:** Concealment of loans, purchase or sale of security, etc.

Any officer or employee of a bank who intentionally conceals from the directors or a committee of such bank where the directors have delegated authority to a committee to pass on loans and discounts, any discount or loan made for and in behalf of the bank between the regular meetings of its board of directors or committee or the purchase or the sale of any of its securities during the same period is guilty of a misdemeanor.

**Section 5-6-22:** Overdrawing own account; receipt of commissions, etc., to procure loans, purchases, discounts, etc.

Any officer, director, or employee of a bank who willfully and knowingly overdraws his account with such bank and thereby obtains money or funds of any such bank except as the superintendent shall allow by regulation, or asks, receives, consents or agrees to receive any commission, emolument, gratuity, or reward or any promise of any commission, emolument or reward, or any money, property or thing of value or of personal advantage in procuring or endeavoring to procure for any person, firm or corporation any loan from or the purchase or discount of any paper, note, draft, check or bill of exchange by any such bank is guilty of a misdemeanor.

**Section 5-6-23:** Receipt or possession of bank property with intent to defraud, etc.

Any director, officer or employee of a bank who knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand and with intent to defraud shall be guilty of a felony.

**Section 5-6-24:** Making of false entries, etc., on books and accounts of bank.

Any director, officer or employee of a bank who with intent to

defraud makes or concurs in making any false entry, or with intent to defraud omits or concurs in omitting to make any material entry on its books and accounts, shall be guilty of a felony.

Section 5-6-25: Fraudulent representation as to capital, false reports, etc., as to condition of bank, etc.

Any director, officer or employee of a bank who knowingly, by newspaper advertisement or otherwise, represents its capital to be in excess of the actual capital accounts or knowingly concurs in making or publishing any materially false written report, exhibit or statement of its financial condition, making any material statement which is false, or refuses or intentionally neglects to make any report or statement required by this title is guilty of a felony.

Section 5-6-26: Loans or extension of credit to bank officers and employees.

An officer or employee of any bank who shall in any way obtain as a borrower any of the funds of such bank without having first complied with the requirements of this section must on conviction be punished as if he had embezzled the amount borrowed.

Any loan obtained by an officer or employee of a bank must be made in accordance with a written loan policy which has been adopted by the board of directors. Such loans or extensions of credit may be made only if (1) the bank would be authorized to make such loans or extensions of credit to borrowers other than officers and employees and (2) such loans or extensions of credit to officers and employees do not involve more than the normal risk of repayment or present other unfavorable features. All such loans, extensions of credit, or lines of credit to an officer must be reported to the board of directors at its next meeting.

## Chapter 7 - BANK MERGER, CONSOLIDATION OR CONVERSION

Section 5-7-1: Banks may merge or consolidate; transfer of place of business.

Any bank may consolidate or merge with or transfers its assets and liabilities to another bank and any bank may move its office or place of business from one city or town to another city or town within the state.

Section 5-7-2: Proceedings to effect consolidation, merger or transfer.

Before such consolidation, merger or transfer shall become

effective, the following proceedings must be had and done: The board of directors of each bank affected must pass a resolution stating that such consolidation, merger or transfer is desirable and order the officers of the bank to call a meeting of the stockholders to consider the proposition. Upon the passage of such resolution by the directors, the officers shall mail a notice of such meeting to each stockholder at his last known place of residence, postage prepaid, at least 30 days before the date set for the meeting of stockholders, which notice shall specify the date and place of the meeting and the purpose for which the meeting is to be held. A copy of the resolution must also be forwarded to the superintendent for his information, and he shall investigate the advisability of such consolidation, merger or transfer. On the day of the meeting of the stockholders, a resolution may be prepared setting forth the desirability of the consolidation, merger or transfer of the place of business of such bank, which shall set forth the terms, etc., of such consolidation, merger or transfer and such other matters as the stockholders may see proper, not contrary to law. If a majority of the stock is represented at such meeting and vote in the affirmative for such resolution and the superintendent shall approve all of the proceedings and it is his judgment that the same would be for the best interest of the institution or institutions affected, such resolution shall have the force and effect of consolidating or merging such institution with the other institution, provided such action of the other institution is likewise satisfactorily passed by its stockholders. If the proposition to transfer the place of business from one town or city to the other is affirmatively voted for by a majority of all the stock of the institution and the superintendent, after careful investigation, is of the opinion that it is wise to change or transfer the place of business to another town or city, such transfer shall be made.

**Section 5-7-3: Certificate of proceedings to be forwarded to superintendent of banks.**

A certificate of all the proceedings, including a copy of the pertinent portion of the minutes of the meeting of the board of directors at which the resolution under section 5-7-2 was passed, the notice which was given to each stockholder and a copy of the minutes of the stockholders' meeting, shall be made and certified to by the president and cashier of the institution under the seal thereof and acknowledged before a notary public as deeds are required to be acknowledged by a corporation and forwarded to the superintendent for his certificate of approval.

**Section 5-7-4: Issuance of certificate of approval by superintendent.**

If the superintendent approves the entire proceedings, he shall issue his certificate of approval in writing, in duplicate, one copy being filed in his office and the other forwarded, along with the certificate, to the official or officials where articles of merger or consolidation would be filed under the business corporation laws of this state, for record at the expense of the institution affected.

Section 5-7-5: Examinations; written consent of superintendent to consolidation.

Before approving proceedings to consolidate one such institution with another, the superintendent shall cause to be made an examination of each such institution to determine whether the interests of the depositors, creditors and stockholders of each are protected and that such consolidation is made for legitimate purposes, and his consent or rejection of such consolidation or transfer shall be based upon such examination and investigation. The expense of such examination shall be paid by such institution. No such consolidation shall be made without the written consent of the superintendent.

Section 5-7-6: Appeals; applicability of article to branch banks, etc.

If such consent is refused, an appeal may be taken therefrom to the circuit court of the county where such institution is located. This article shall apply to banks having branches and to any branch office thereof in the same way as it applies to other banks.

Section 5-7-20: Procedure for conversion of national bank, etc., into state bank.

Any bank organized under the laws of the United States may, by the vote of the stockholders owning not less than a majority of the capital stock of such bank with the approval of the superintendent and upon the payment by it to the superintendent of a fee prescribed by the banking board under section 5-5-13, be converted into a state bank with any name approved by the superintendent.

Section 5-7-21: Execution of articles of incorporation and organization certificate; power of directors; etc.

In case of such conversion, the articles of incorporation and organization certificates may be executed by a majority of the directors of the bank and the certificate shall declare that the owners of a majority of the capital stock have authorized the directors to make such certificate and to exchange or convert the national bank into a state bank. A majority of the directors, after executing the articles of incorporation and the organization certificate, shall have power to execute all other papers and to do

whatever may be required to make its organization perfect and complete as a state bank. The shares of any such bank may continue to be for the same amount each as they were before they were converted, and the directors may continue to be directors of the state bank until others are elected or appointed in accordance with the statutes of Alabama.

**Section 5-7-22:** Powers and duties of bank, stockholders, officers, etc., upon issuance of certificate by superintendent.

When the superintendent has given to such bank a certificate that the provisions of this article have been complied with, such bank and all its stockholders, officers and employees shall have the same powers and privileges and shall be subject to the same duties, liabilities and regulations, in all respects, as shall have been prescribed for banks originally organized as banking corporations under the laws of Alabama.

At the time when such conversion of the national bank into a state bank, under the charter of the latter, becomes effective, all the property of the national bank, including all its rights, title and interest in and to all property of whatsoever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest and asset of any conceivable value or benefit then existing, belonging or appertaining to it or which would inure to it, shall immediately, by act of law and without any conveyance or transfer and without any further act or deed, be vested in and become the property of the state bank, which shall have, hold and enjoy the same in its own right as fully and to the same extent as if the same were possessed, held and enjoyed by the national bank.

Upon such conversion becoming effective, the state bank shall be deemed to be a continuation of the entity and of the identity of the national bank and all the rights, obligations and relations of the national bank to or in respect to any person, estate, creditor, depositor, trustee or beneficiary of any trust and in, or in respect to, any executorship or trusteeship or other trust or fiduciary function shall remain unimpaired. The state bank as of the time of the taking effect of such conversion, shall succeed to all such rights, obligations, relations and trusts and the duties and liabilities connected therewith and shall execute and perform each and every such trust or relation in the same manner as if the state bank had itself assumed the trust or relation, including the obligations and liabilities connected therewith. If the national bank is acting as administrator, co-administrator, executor, co-executor, trustee or co-trustee of or in respect to any estate or trust being administered under the laws of this state, such relation, as well as any other or similar fiduciary relations, and all rights, privileges, duties and obligations connected therewith shall remain unimpaired and shall continue into and in said state bank from and as of the time of the



taking effect of such conversion, irrespective of the date when any such relation may have been created or established and irrespective of the date of any trust agreement relating thereto or the date of the death of any testator or decedent whose estate is being so administered. Nothing done in connection with the conversion of a national bank into a state bank shall in respect of any such executorship, trusteeship or similar fiduciary relation, be deemed to be or to effect, under the laws of this state, a renunciation or revocation of any letters of administration or letters testamentary pertaining to such relation, nor a removal or resignation from any such executorship or trusteeship or other fiduciary relationship, nor shall the same be deemed to be of the same effect as if the executor or trustee or other fiduciary had died or otherwise become incompetent to act.

Any reference to the national bank in any contract, will or document shall be considered a reference to the state bank unless expressly provided to the contrary in the contract, will or document.

#### Section 5-7-23: Declaration of incorporation.

Before the issuing of such certificate by the superintendent a majority of the directors of such bank shall file in the office of the official or officials with which a certificate of incorporation would be filed under the business corporation laws of this state a declaration of incorporation, which shall show:

- (1) The name to be assumed and used by the corporation;
- (2) The objects of the corporation, among which shall be the conversion of a national bank with the name and description of the same, into a state bank with all the power and authority that may be exercised by a state bank;
- (3) The location of its principal office;
- (4) The amount of its total authorized capital and the amount of its paid-in capital;
- (5) The name and post office address of each officer and director;
- (6) The time limit, if any, for the duration of the corporation; and
- (7) A certificate, acknowledged before a notary public by a majority of the directors of the national bank so converted, that there has been transferred by the national bank, by a vote of the stockholders owning not less than a majority of the capital stock of such national bank, to such state bank into which it is converted, all the property and assets of said national bank.

**Section 5-7-24: Issuance of stock by state bank.**

Such state bank shall have authority to issue to the stockholders of the national bank from which it was converted shares of stock of the same amount and of the same par value as is held by each of said stockholders in such national bank.

**Section 5-7-40: Authorized; exchange of stock.**

Any state bank may, with the consent of the holders of a majority in amount of its stock obtained at a meeting of the stockholders called therefor, be converted into or consolidate with a national bank in such manner as may, at the time of such conversion or consolidation, be prescribed by the laws of the United States, and the stock of such state bank may be exchanged for stock in such national bank upon such terms as the consenting stockholders may, at the meeting at which the conversion or consolidation is authorized, determine or upon such terms as the holders of a majority of the stock of such state bank may, at any other meeting called for such purpose, determine.

**Section 5-7-41: Meeting of stockholders for purpose of conversion or consolidation.**

All meetings of stockholders, called for any of the purposes provided for in section 5-7-40, shall be called by resolution of the board of directors. Notice of such meeting and of the purposes thereof shall be published once a week for 30 days prior to the date of such meeting in some newspaper published in the city, town or village in which the principal place of business of said state bank is located, but if no daily or weekly newspaper is published in such place, then the publication shall be made in a newspaper published nearest thereto.

**Section 5-7-42: Transfer of property of a state bank to national bank.**

At the time when such conversion of or consolidation by the state bank with a national bank, under the charter of the latter, becomes effective, all the property of the state bank including all its rights, title and interest in and to all property of whatsoever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest and asset of any conceivable value or benefit then existing, belonging or appertaining to it or which would inure to it, shall immediately, by act of law and without any conveyance or transfer and without any further act or deed, be vested in and become the property of the national bank, which shall have, hold and enjoy the same in its own right as fully and to the same extent as if the same were possessed, held and enjoyed by the state bank.

Section 5-7-43: Continuation of identity, obligations, etc., of state bank.

Upon such conversion or consolidation becoming effective, the national bank shall be deemed to be a continuation of the entity and of the identity of the state bank and all the rights, obligations and relations of the state bank to or in respect to any person, estate, creditor, depositor, trustee or beneficiary of any trust and in, or in respect to, any executorship or trusteeship or other trust or fiduciary function shall remain unimpaired. The national bank, as of the time of the taking effect of such change or consolidation, shall succeed to all such rights, obligations, relations and trusts and the duties and liabilities connected therewith and shall execute and perform each and every such trust or relation in the same manner as if the national bank had itself assumed the trust or relation, including the obligations and liabilities connected therewith. If the state bank is acting as administrator, co-administrator, executor, co-executor, trustee or co-trustee of or in respect to any estate or trust being administered under the laws of this state, such relation, as well as any other or similar fiduciary relations, and all rights, privileges, duties and obligations connected therewith shall remain unimpaired and shall continue into and in said national bank from and as of the time of the taking effect of such conversion or consolidation, irrespective of the date when any such relation may have been created or established and irrespective of the date of any trust agreement relating thereto or the date of the death of any testator or decedent whose estate is being so administered. Nothing done in connection with the consolidation of a state bank with a national bank shall, in respect to any such executorship, trusteeship or similar fiduciary relation, be deemed to be or to effect, under the laws of this state, a renunciation or revocation of any letters of administration or letters testamentary pertaining to such relation, nor a removal or resignation from any such executorship or trusteeship or other fiduciary relationship, nor shall the same be deemed to be of the same effect as if the executor or trustee or other fiduciary had died or otherwise become incompetent to act.

## Chapter 8 - LIQUIDATION OF BANKS

Section 5-8-1: Liquidation of solvent banks.

Any solvent bank may dissolve under the provisions of Alabama law relating to voluntary dissolution of a business corporation provided that the superintendent has given his written approval to such dissolution. The superintendent may require the directors to give bond in an amount fixed by him with surety or sureties to be approved by him, payable to the State of Alabama, for the protection of the superintendent and all other persons interested; provided, however, the amount of any such bond

required shall not be greater than the total liability of the bank to its depositors and other creditors. Upon receipt of the written approval of the superintendent of the statutory dissolution procedures, it shall be unlawful for said bank to receive any further deposits.

Section 5-8-20: Proceedings of superintendent before banking board as to defaults or misconduct of bank.

Whenever it shall appear to the superintendent that any bank has violated its charter or any law of the state, or is conducting business in any unauthorized manner, or if its capital is impaired and not made good under the requirement of the superintendent within the required time, or if any such bank or an affiliate of such bank as defined in section 5-3-1 shall refuse to submit its papers, books and concerns to the inspection of the superintendent or any examiner, or if any officer thereof shall refuse to be examined on oath touching the conducting of any such bank, or if any such bank shall suspend payments of its obligations, or if from any examination the superintendent shall have reason to conclude that such bank is in an unsound or unsafe condition to transact the business for which it was organized, or that it is unsafe for it to continue business, or if any such bank shall neglect or refuse to observe any order of the superintendent directing or requiring the doing or cessation of any particular thing required to be done or not to be done by law, the superintendent may call a meeting of the banking board and submit to said board matters of default or misconduct in the affairs of the bank, of which the bank shall have notice and upon which the bank may be heard in person or by counsel, and if said board or a majority of said board so directs, the superintendent shall forthwith take possession of the property and business of such bank and retain such possession until such bank shall resume business or a receiver appointed, as provided in this chapter.

Section 5-8-21: Liquidation of bank by superintendent without assent of banking board.

If a majority of the directors of any bank so request in writing and the bank has violated any of the provisions of the banking laws or is insolvent, the superintendent may take charge of and liquidate the affairs of the bank as provided in this chapter under 5-8-20 without calling a meeting of the banking board.

Section 5-8-22: Institution of civil action for vacation of charter, liquidation, etc. of bank.

The circuit court of the county in which the principal place of business of the bank is located, sitting without a jury may upon application of the superintendent vacate the charter of a bank, liquidate a bank, or appoint a receiver if the directors of the bank

knowingly violate or knowingly permit any of the officers, agents or employees of the bank to violate any of the provisions of Title 5. No civil action shall be instituted by any other person to vacate the charter of or liquidate or appoint a receiver for any bank except as authorized in § 5-8-24.

**Section 5-8-23:** Acquisition of possession of property and business of bank by superintendent; notice to holders of bank assets.

The superintendent shall not take possession of the property and business of any bank under the provisions of this chapter unless requested in writing so to do by a majority of the directors of the bank under 5-8-21 or directed so to do by the banking board under section 5-8-20. On taking possession of the property and business of any such bank, the superintendent shall give notice of such fact to all banks in this state and other parties or corporations known to be holding or in possession of any assets of such bank.

**Section 5-8-24:** Appointment of receiver to liquidate bank.

The superintendent may under his hand and official seal appoint a receiver to liquidate and distribute the assets of any bank taken possession of by the superintendent under the provisions of this chapter, the certificate of appointment to be filed in the office of the superintendent and a certified copy in the office of the probate judge in the county in which the principal office of such bank is located. The receiver may be the federal deposit insurance corporation or any other agency or corporation created by the United States to act in such capacity or any person selected by the superintendent; provided, however, no examiner shall be appointed receiver of any bank whose books, papers and affairs he shall have examined within one year next preceding the appointment of such receiver. Any receiver shall apply for and shall be entitled to an *ex parte* order confirming his appointment as a receiver from the receivership court.

**Section 5-8-25:** Passage of title to assets, etc., of banking institution to receiver.

Upon the appointment of a receiver to liquidate a bank, the possession of and title to all assets, business and property of such bank of every kind and nature shall pass to and vest in the receiver without the execution of any instruments of conveyance, assignment, transfer or endorsement.

**Section 5-8-26:** Use of bank examiner's reports in court in liquidation proceedings, etc.

In the event the superintendent takes charge of the business and affairs of any bank as authorized in this chapter or in the event a proceeding is instituted to forfeit the charter of any bank, the

report of the examiner of such bank on file in the office of the superintendent or a copy thereof duly certified by the superintendent under his official seal, is admissible and may be used as evidence in any court, either by the superintendent, the banking board, any member or employee thereof, the receiver or the bank.

Section 5-8-27: Application by bank for injunction against acquisition of possession of business and property by receiver or superintendent.

Whenever the superintendent or a receiver has taken charge of the property or business of any bank, such bank may at any time within 10 days after the taking of such possession apply to the receivership court to enjoin further proceedings by the receiver or superintendent; and the court, after citing the receiver and superintendent to show cause why further proceedings should not be enjoined and hearing the allegations and proof of the parties and determining the fact, may, upon the merits, dismiss such application or enjoin the receiver or superintendent from further proceedings and direct him to surrender such business and property to such bank. Any such application for injunction may be heard at any time in the discretion of the receivership court after one day's notice from the time of service of process on the receiver and superintendent. If application is made to enjoin the proceedings of the receiver, the superintendent may intervene and become a party to such action as a matter of right.

Section 5-8-28: Creation of liens against bank after possession by superintendent.

After the superintendent has taken possession of the property and business of a bank as provided in this chapter, no judgment lien, attachment lien, or any voluntary lien, except as provided in this chapter, shall attach to any assets of said bank nor shall the directors, officers, employees or agents of such bank have authority to act on behalf of said bank or to convey, transfer, assign, pledge, mortgage, or encumber any assets thereof.

Section 5-8-29: Resumption of business of bank.

After the superintendent has taken possession of a bank, the superintendent may permit such bank to resume business upon such conditions as may be approved by him, including an observance of all the requirements of law and making good of all deficits in the **previous** observance of law.

Section 5-8-30: Collection of claims of bank, etc.

Upon taking possession of any of the property and business of any bank, the receiver may collect moneys due to such bank and do

such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as provided in this chapter. The receiver shall collect all debts due and claims belonging to the bank, whether in this state or in any other state, and may proceed in courts of competent jurisdiction to enforce said claims in this state and in other states. "Claims" shall include any right of action against any surety, fidelity or insurance company, auditor or any past or present officer or director of such bank for mismanagement, violations of laws or regulations or other breach of duty. It shall be the duty of the receiver or his duly authorized agent to satisfy on the proper record all mortgages, judgments, security interests, or other liens held or owned by any insolvent bank that have been paid or satisfied.

**Section 5-8-31: Subrogation of federal deposit insurance corporation.**

Whenever any bank shall have been closed as provided under the laws of this state, and the federal deposit insurance corporation shall pay or make available for payment the insured deposit liabilities of such closed institution, the corporation, whether or not it shall have become receiver or liquidator of such closed bank, shall be subrogated to all rights against such closed bank of the owners of such deposits in the same manner and to the same extent as subrogation of the corporation is now or may be hereafter provided for by federal law in the case of the closing of a national bank; provided, that the rights of depositors and other creditors of such closed bank shall be determined in accordance with the applicable provisions of the laws of this state.

**Section 5-8-32: Sale, etc., of bad debts and property of bank.**

The receiver, by making application to the receivership court, may procure an order to sell or compound all bad and doubtful debts and on like order may sell all real and personal property of such bank on such terms as the court shall direct; provided, however, that the receiver shall have the right to ask for a blanket order from the receivership court for the settlement of all debts, claims of any and all nature, and deposits and for the sale of real and personal property wherein no single item exceeds the value of \$10,000. In all or any of such court proceedings, the bank shall be made a party by proper service of process issued from the court, and the hearing of any such application or petition of the superintendent may be had at any time after the bank has had five days' notice of the application; provided, however, the court may *ex parte* approve a purchase and assumption transaction as provided for in 12 U.S.C. § 1823(e) or a similar transaction authorized by federal law and provided further if notice of the hearing of said

application is waived or the allegation of said application is admitted by the bank, no further proof will be required of the allegations of said application and the order may be forthwith granted by the court.

Section 5-8-33: Negotiation of loans, granting of security, etc. on behalf of closed bank.

(a) The receiver is authorized to borrow money and pledge the assets of a bank in liquidation for protecting and preserving its assets, for paying secured claims, for aiding in the reorganization or reopening of such bank or for making distribution to depositors and creditors when, in the judgment of the receiver, the borrowing of such funds would be to the interest of the depositors and creditors.

(b) For any loan negotiated under the authority vested by this article, the receiver may execute a note therefor, renew the same from time to time and do all the things he considers necessary until the same has been paid. Such note or renewal or any mortgage or contract to be executed for the purpose hereof shall be signed by giving the name of the bank, followed by the words - "In liquidation," "By ..... (the name of the receiver) receiver." Any note or other contract executed for the purpose hereof shall be treated as the obligation of the bank and the holder thereof shall have the character of a creditor of the bank for the amount of any deficiency in the security furnished.

(c) To secure any such loan, the receiver may pledge, mortgage, or grant a security interest in, by appropriate contracts or writings, any or all of the assets, real or personal, in his possession belonging to the bank for whose benefit the loan shall be obtained.

(d) Before closing the proposal to procure the loan, pledge, mortgage, or grant of a security interest in assets under subsections (a) and (c), the same shall be presented to the receivership court by petition, giving the court full information concerning desirability of making the loan and granting a security and such other matters as the receiver may desire, and the court may pass upon such petition with or without notice to the former directors or chief executive officer of the bank involved or to other parties in interest.

Section 5-8-34: Loans from and sale of assets to federal deposit insurance corporation for bank.

With respect to any bank which is now or may hereafter be closed as provided under the laws of this state, the receiver of such bank may borrow from the federal deposit insurance corporation



and furnish any part or all of the assets of said bank to said corporation as security for a loan from same; provided, that where said corporation is acting as such receiver, the order of the receivership court shall be first obtained approving such loan. The receiver, upon the order of the receivership court which may be *ex parte*, may sell to said corporation any part of all of the assets of such bank. The provisions of this section shall not be construed to limit the power of the receivers to pledge or sell assets in accordance with any existing law.

**Section 5-8-35: Assumption or rejection of executory contracts by receiver.**

The receiver shall assume or reject any executory contract, including an unexpired lease of real or personal property, within sixty days after appointment, but the receivership court may for cause shown extend or reduce the time. Any such contract or lease not assumed or rejected within that time shall be deemed to be rejected. The receiver shall file within sixty days of his appointment, a statement under oath showing which, if any, of the contracts of the bank are executory in whole or in part, including unexpired leases of real or personal property, and which, if any, have been rejected by the receiver. Unless a lease of real or personal property expressly otherwise provides, a rejection of the lease or of any covenant therein by the receiver of the lessor does not deprive the lessee of his estate. A general covenant or condition in a lease that it shall not be assigned shall not be construed to prevent the receiver from assuming the same at his election and subsequently assigning the same; but an express covenant that an assignment by operation of law or the liquidation of a specified party thereto, or of either party shall terminate the lease or give the other party an election to terminate the same is enforceable. A receiver who elects to assume a contract or lease of the bank and who subsequently with approval of the receivership court and upon such terms and conditions as the receivership court may fix after hearing upon notice to the other party to the contract or lease, assigns such contract or lease to a third person, is not liable for breaches occurring after the assignment.

**Section 5-8-36: Employment of counsel, expert assistants, etc., in liquidation of bank; compensation of assistants, etc.; court approval of liquidation expenses.**

The receiver may employ such counsel and procure such expert assistants and advice as may be necessary in the liquidation and distribution of the assets of such bank and may retain such of the officers or employees of such bank as he may deem necessary. The receiver and such assistants as will have charge of any of the assets

of the bank may be required to post such security for the faithful discharge of their duties as the receivership court may deem proper. The compensation of assistants and other employees and all expenses of supervision and liquidation shall be fixed by the receiver subject to the approval of the receivership court on notice to such bank.

**Section 5-8-37: Payment of compensation.**

When the compensation for the various parties aiding in the liquidation is fixed and approved, the same shall be paid out of the funds of such bank in the hands of the receiver and shall be a prior charge and lien on the assets of such bank.

**Section 5-8-38: Deposit of funds collected by receiver.**

The money collected by the receiver shall be, from time to time, deposited in one or more banks in this state.

**Section 5-8-39: Notice for and filing of claims against bank.**

The receiver shall cause notice to be given by advertisement in such newspaper as he may direct, once a week for six consecutive weeks, calling all persons who may have claims, but not including deposits or certificates of deposit shown by the books of the bank which shall be a prima facie proven claim against the bank, against such bank to present the same to the receiver and make legal proof thereof at a place and within a time to be specified in the notice, not less than 90 days from the day of the first publication of the notice. The receiver shall mail a similar notice to all persons whose names appear as creditors upon the books of the bank.

**Section 5-8-40: Preferred claims.**

In addition to any other laws of this state or of the United States granting priority, any draft or cashier's check issued and drawn against actual existing value by any bank prior to its failure or closing and given in payment of clearings and any money paid in the usual course of business to any bank in payment of a draft for the bona fide transfer of funds shall be a preferred claim against the assets of the bank, irrespective of whether the fund representing such item or items can be traced and identified as part of such assets or has been intermingled with or converted into other assets of such failed bank.

**Section 5-8-41: Inventory of assets of bank; filing list of claims.**

Upon taking possession of the property and assets of such bank, the receiver shall make an inventory of the assets of such bank in duplicate, and upon expiration of time for rejection of claims, make

a full and complete list of claims in duplicate, specifying which claims have been rejected by him. A copy of the inventory and a copy of this list of claims shall be filed in the office of the receiver and one copy of each shall be filed in the office of the clerk of the receivership court. Such inventory and list of claims shall be open at all reasonable times to inspection.

**Section 5-8-42: Objections to claims; provision for unproven or unclaimed deposits.**

Objections to any claim or deposit not rejected by the receiver may be made by any party interested by filing a copy of such objections with the clerk of the receivership court and with the receiver, who shall present the same to the receivership court before the time of the next application to declare a dividend. The receivership court may make proper provisions for unproven or unclaimed deposits.

**Section 5-8-43: Rejection of claims.**

If the receiver doubts the validity of any claims or deposits, he may reject the same and serve notice of such rejection upon the claimant or depositor, either by mail or personally, and an affidavit of service of such notice, which shall be prima facie evidence thereof, shall be filed in the office of the receiver.

**Section 5-8-44: Actions upon rejected claims; late claims.**

Any action upon a claim so rejected must be brought by filing a complaint in the receivership court by the claimant within six months after service of such notice or the same shall be barred. Claims presented and allowed after the expiration of the time fixed in the notice to creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the receiver at the time such claims are filed, without allowance for previous distribution.

**Section 5-8-45: Payment of claims.**

At any time after the expiration of the date fixed for the presentation of claims, the receiver may, out of the funds remaining in his hands after the payment of expenses, declare and pay one or more dividends to creditors, and after the expiration of one year from the first publication of notice to the creditors to present claims, he may declare and pay a final dividend, such dividend to be paid to such persons and in such amounts and upon such notice as may be directed by the receivership court.

**Section 5-8-46: Final distribution, termination of receivership and dissolution of bank.**

Whenever the receiver shall have paid to each and every depositor and creditor of such bank whose claim or claims as such creditor or depositor shall have been duly proven and allowed the full amount of such claims and shall have made proper provision for the unclaimed and unpaid deposits or dividends the receiver shall make application for final settlement including expenses of liquidation, to be approved by the receivership court and shall distribute the balance of any assets remaining ratably to the stockholders. Creditors shall not receive interest after the date of taking of possession by the superintendent. The receiver shall in said final settlement order be directed to file in the office of the judge of probate of the county in which the principal place of business of the bank was located and in the office of secretary of state a certificate of dissolution and the written approval of the superintendent to such dissolution; and said bank shall thereupon be dissolved. Any unclaimed funds in the hands of the receiver shall be transmitted by him to the state treasurer to be held as unclaimed property under the provision of Alabama Code sections 35-12-20 through -48.

## Chapter 9- REORGANIZATION OF BANKS

### Section 5-9-1: Cooperation of superintendent in reorganization of bank.

Whenever the board of directors or a majority of the stockholders of any bank shall request the superintendent to cooperate in a reorganization of such bank, because of a substantial impairment of the capital of such bank, the superintendent is authorized to do the following:

(1) To make or have made a careful appraisalment of the assets of the bank;

(2) If the appraisalment shows the capital to be impaired, to charge the stock down to its actual value, if it has any, and if the appraisalment shows the stock has no value, to charge off all capital, surplus and undivided profits and thereafter the rights and interests of such stockholders in any of the assets of the bank shall be subordinate to those of the creditors of the bank and the secured depositors to the extent of such security so held by such secured depositor;

(3) If the capital, surplus and undivided profits are not sufficient to take care of all losses, to prorate the remainder of the losses among the various depositors or common creditors;

(4) If found necessary, to set aside such portion of the assets of such bank to be either liquidated or delivered to creditors or

depositors who may be disqualified under the law to participate in a reorganization, such portion to be the pro rata share of the assets which such disqualified creditors or depositors would be entitled to receive from the assets of the bank if the same were liquidated;

(5) To prepare a plan for the reorganization of such bank, including provisions for obtaining sufficient funds for capital purposes by the issuance of stock, such stock if necessary to be of different classes; and

(6) To submit such plan of reorganization, when prepared, to the board of directors of such bank which has made request for the cooperation of the superintendent for a reorganization.

Section 5-9-2: Submission of reorganization plan to court for confirmation and approval.

After such plan for reorganization has been submitted to the board of directors of the bank so making such request for a reorganization, the directors of such bank by and with the consent of seventy-five percent in value of the stockholders and seventy-five percent in value of the common creditors are authorized and empowered to make a report of such plan to the circuit court of the county in which the principal business office of the bank is located, such report to be accompanied by a petition for its confirmation and approval.

Section 5-9-3: Publication of reorganization plan.

Upon the filing of such report and petition, the court shall order notice to be given to all parties in interest by publication in some newspaper published in the county where the principal business office of such bank is located once a week for two consecutive weeks, which notice shall set forth substantially the plan of such reorganization and require all parties in interest to appear at a specified time either to consent to or protest against the plan for such reorganization.

Section 5-9-4: Hearing upon plan; entry of judgment.

At the time of the hearing of the petition, the court shall hear such legal evidence as may be submitted for and against such petition and plan for reorganization, and if the court is of the opinion it is for the best interest of all parties interested in such bank that the bank be reorganized in accordance with the plan set forth and submitted or in accordance with any modification of such plan determined upon by the court, such court shall so adjudge and enter a judgment fixing the rights of the parties in interest and adjudging that said plan or modification thereof be adopted and

confirmed and that said bank be reorganized under and in conformity with such plan or modification thereof.

#### Section 5-9-5: Appeals.

If any stockholder, depositor or creditor shall not be satisfied with such judgment, he may file a notice of appeal to the supreme court of Alabama within 42 days from the day of entry of such judgment, provided he shall give security for cost of such appeal and indemnity in an amount to be fixed by the court, conditioned to pay such damages as the stockholders, depositors or creditors may sustain for a wrongful appeal or delay. Any such appeal shall be a preferred case in the supreme court and shall be set for hearing at the earliest possible date. If no such appeal is taken, the judgment of the circuit court shall be final, and said bank may lawfully be reorganized in accordance with the plan approved by the court.

#### Section 5-9-6: Manner of reorganization not exclusive.

The plan for reorganization of a bank or banks as provided in this chapter shall not be exclusive and shall not be construed to prohibit or prevent a reorganization of a bank as now permitted under existing laws.

### Chapter 10 - BANKING EMERGENCIES AND COMPLIANCE WITH FEDERAL LAWS.

#### Section 5-10-1: Authorization or direction of banks to segregate assets, renew loans, etc.

The superintendent with the concurrence of not less than two other members of the banking board, or any three members of the banking board without action by said superintendent, are hereby authorized and empowered, in addition to all other powers now conferred by law upon the superintendent or the banking board, or both, whenever in their judgment the circumstances warrant it, to authorize or direct any and all banks:

- (1) To postpone for any length of time the payment of any proportion of deposit or other liabilities, demand and savings account liabilities and certificates of deposit liabilities to any individual, firm, corporation or entity as said state officials may deem necessary and expedient, to be determined by them according to any facts and conditions which in their opinion, for emergency or other reasons, require such action in each particular instance;

- (2) To receive deposits to be classified by said state officials under rules and regulations as extended or modified under this chapter from time to time, each class of which shall be segregated from any other class, shall be subject only to such restrictions or

limitations, if any, as may be imposed by said state officials and may be invested in such character of investments as may be authorized or approved from time to time by said state officials;

(3) To segregate particular assets for or towards the liquidation and discharge of particular deposit or other liabilities, or any specified percentage thereof, of said bank without proceeding with a receivership liquidation, under such rules and regulations with respect thereto as said state officials may deem proper for the protection of interested parties and, in such cases, to continue the operation of the business; and

(4) To make and renew loans from time to time in the ordinary course of banking business out of any assets available therefor.

Section 5-10-2: Promulgation of rules and regulations; requirements of reports, etc., generally.

The superintendent with the concurrence of not less than two members of the banking board, or any three members of the banking board without action by said superintendent may authorize and empower any bank to act under the provisions of this chapter, and they are empowered to make and adopt such rules and regulations from time to time and to extend, modify, suspend or terminate any part thereof from time to time as they may deem proper for the protection of interested parties and to require such periodical and other reports in detail with respect to operation under such rules and regulations as they may see fit.

Section 5-10-3: Declaration of banking holidays; promulgation of emergency rules or regulations.

Whenever in the opinion of the superintendent it shall be deemed that an emergency exists, the superintendent with the concurrence of not less than two other members of the banking board, or any three members of the banking board without action by said superintendent, shall be authorized to declare and put into effect a bank holiday for such period as he or they may deem necessary or to promulgate or approve such emergency rules or regulations with respect to banking business, practices and transactions within the state or within any community or locality therein as shall, in his or their opinion, be deemed necessary. Such rules and regulations shall continue in force for such period as may be fixed by him or them in promulgating the same and until modified, suspended or terminated as provided in this chapter.

Section 5-10-4: Extension, etc., of banking holiday or emergency rules or regulations.

Any such bank holiday or any such rule or regulation may be

extended, modified, suspended or terminated by the superintendent with the concurrence of not less than two other members of the banking board or by any three members of the banking board without action by said superintendent by signing and filing their written direction to that effect with the superintendent who shall thereupon forthwith proclaim and give effect to the same.

Section 5-10-5: Preceding sections applicable only in emergencies; duration of emergency action.

The provisions of Sections 5-10-1 through 5-10-4 authorize actions to be taken during an emergency. Any action taken pursuant to these actions shall be reported to the banking board and shall automatically terminate upon the expiration of 120 days unless such action is approved during that period by a majority of the banking board.

Section 5-10-7: Operation of banks under federal law.

Any bank may do any and all things necessary or desirable to permit it to operate under the provisions of any act of congress of the United States now or hereafter enacted.

Section 5-10-8: Payment of expenses of bank operating without receivership liquidation.

Whenever, pursuant to any provision of this chapter, any bank is authorized to do any one or more of the things specified in this chapter without receivership liquidation, its operating expenses, including compensation to officers and employees, shall be payable as a first charge against all of its assets, subject to such proration thereof and such limitations as may be placed thereon from time to time by any rules and regulations made and adopted and extended or modified from time to time as in this chapter provided. Any such rules and regulations may permit any bank to make charges for any banking service performed by it, and it shall be lawful for any bank to charge accordingly for services not in excess of the amount authorized by such rules and regulations.

Section 5-10-9: Segregation of assets—Manner of segregation generally; distribution of segregated assets upon receivership liquidation of bank.

Whenever pursuant to any provision of state or federal law or of any rule or regulation by any state or federal authority made or adopted pursuant thereto or whenever pursuant to contractual arrangement any bank is under duty or obligation to segregate particular assets for or towards the liquidation or discharge of



particular liabilities or specified percentages of particular liabilities, such assets shall be segregated in such manner as to provide for the pro rata application of the proceeds thereof from time to time to the particular liabilities or percentage of particular liabilities for the purpose of which they are segregated without preference or priority of one liability over another and in accordance with the amounts of such particular liabilities as of the date of such segregation. Upon any receivership liquidation of any bank, the particular assets so segregated and any then remaining proceeds of any thereof shall, subject to expenses of liquidation, be distributable pro rate toward the particular liabilities or percentage of particular liabilities on account of which segregated, with proper adjustment for previous payments therefrom.

**Section 5-10-10: Same—Manners of segregation.**

Whenever pursuant to any provision of state or federal law or of any rule or regulation by any state or federal authority made or adopted pursuant thereto, or whenever pursuant to contractual arrangement any bank is under duty or obligation to segregate particular items or assets separate and apart from other items or assets, the same may be either segregated specifically and in kind in the possession of the bank but commingled within the class or amount for the purpose of which they are segregated, or converted into a deposit account separate from any general or other deposit account of such bank with a federal reserve bank or branch thereof, created and organized under an act of congress of the United States approved December 23, 1913, known as the Federal Reserve Act, as amended, or with any governmental agency hereafter created by act of congress of the United States authorized to receive such deposit accounts but commingled in such account within the class or amount for the purpose of which such deposit is made, or converted into a deposit account separate from any general or other deposit account of such bank with any one or more other banks or with any one or more banks doing business outside of the state and members of the federal reserve system or any governmental agency hereafter created by act of congress of the United States authorized to receive such deposit accounts but commingled in such account within the class or amount for the purpose of which such deposit is made, or either or any one or more of the foregoing. Any such segregation shall be sufficient if made in any one or more of the manners above specified at or as of the close of business on any banking day.

**Section 5-10-11: Same—Commingling of items in classes of deposits.**

Within any class of deposits in any bank for the purpose of

which class particular assets are segregated, the separate items may be mingled and commingled.

**Section 5-10-12: Same—Adjustments; identification of segregated items.**

Whenever any bank is required to segregate particular assets under any rule or regulation promulgated or extended or modified under this chapter, it shall accomplish such segregation as promptly as reasonably possible and shall at and as of the close of business on each banking day adjust such segregation to the additions thereto and withdrawals therefrom in accordance with rules and regulations promulgated, extended or modified from time to time under this chapter. Transfer orders as of the close of business each banking day shall be sufficient for the purposes of any such segregation or adjustment thereof. Any segregation made in accordance with the provisions of this chapter or in accordance with any rule or regulation promulgated, extended or modified under this chapter shall be sufficient identification of the items included in such segregation for all purposes.

**Section 5-10-13: Discharge of deposits of script, clearinghouse certificates of emergency currency.**

Any deposit of script, clearinghouse certificates or emergency currency in any form or of any order on any such deposit shall be dischargeable in whole or in part either in kind or in legal tender of the United States of a value no greater than the current exchange value of the script, clearinghouse certificates or emergency currency originally deposited at the time of the payment at the option of the bank accepting such deposit. Any other deposit shall be dischargeable when and as entitled to payment thereof or on account thereof only in legal tender of the United States as fixed by the laws of the United States in force and effect at the time of payment thereof or of payment on account thereof.

**Section 5-10-14: Issuance and reissuance of script, clearinghouse certificates or emergency currency.**

The superintendent with the concurrence of not less than two other members of the banking board, or any three members of the banking board without action by said superintendent may from time to time authorize any bank singly or by groups, to issue and reissue from time to time script, certificates, clearinghouse certificates or emergency currency in such form, under such restrictions and conditions, entitled to such lien on specific security therefor or without such lien and entitled to such rights and privileges as said state officials may authorize, approve or direct.

The issue and reissue thereof shall be lawful and subject to no civil or criminal penalties or interest charges or taxation or additions of any kind thereto, notwithstanding any contrary provisions of the laws of this state.

**Section 5-10-15:** Issuance of notes or certificates of indebtedness as evidence of compensation for services or labor during banking emergency.

Where a banking emergency has been proclaimed by the superintendent and until such time as such emergency is declared to have ended by proclamation of the superintendent, it shall be lawful for the state or any political subdivision thereof and for merchants, manufacturers, public utilities and other business establishments in this state, whether conducted by an individual or individuals or under corporate charter, with the approval of the superintendent to issue as evidence of compensation for services or labor notes or certificates of indebtedness to their employees in convenient denominations, payable not more than 90 days after such proclamation shall be made, and none thereof shall be subject to any civil or criminal penalties or interest charges or taxation or additions thereto of any kind notwithstanding any contrary provisions of the laws of this state. The right of the state or any political subdivision thereof to issue notes in anticipation of the collection of taxes under any law now in force and effect shall not be impaired or affected by the provisions of this section.

**Section 5-10-16:** Authorization and approval of reorganization of bank without receivership liquidation.

The superintendent with the concurrence of not less than two other members of the banking board or any three members of the banking board without action by said superintendent are hereby further authorized and empowered to approve and authorize any bank to reorganize its business and affairs, without receivership liquidation, to such extent as may be deemed by them proper, and any reorganization so approved and authorized shall be lawful and effective; provided, that in no case shall the paid-in capital stock be permitted thereby to be reduced below the minimum amount now required by law.

**Section 5-10-18:** Compliance with chapter, federal laws, etc., not to entail liability.

No bank nor any surety or guarantor of any bank shall suffer any penalty or liability for damages or increase of liability or be in default, nor shall any maker, endorser, guarantor or other party or person be released from liability or obligation or be in default by

reason of a bank's compliance with any action of any state official authorized or ratified by this chapter or compliance with any act of Congress of the United States now or hereafter enacted or with any rule or regulation promulgated by duly constituted officials of the United States.

**Section 5-10-19:** Officers not to incur liability or penalties for compliance with orders of superintendent, federal laws, etc.

No public officer or surety on his official bond shall suffer any penalty or liability for damages or increase of liability or be in default by reason of any failure on his part to perform any act or duty where such failure is due to compliance by any bank with any order or requirement of the superintendent or the banking board authorized or ratified by this chapter or with any act of congress of the United States now or hereafter enacted or with any rule or regulation promulgated by duly constituted officials of the United States.

## **Chapter 11 - REGULATION OF TRUST BUSINESS OF BANKS AND TRUST COMPANIES**

**Section 5-11-1:** Amenability of trust companies to banking laws; use of word "trust" in corporate name generally; operation of trust departments, etc., by banks.

All corporations organized and operating as trust companies shall have the word "trust" as a part of their corporate names, shall be amenable to the general banking laws of the state insofar as said laws are applicable to trust companies and not in conflict with the provisions of this chapter and shall be examined by the superintendent as state banks are examined. The word "trust" need not be a part of the corporate name of any corporation now or hereafter organized under the laws of this state to do a banking business and all such banks, although the word "trust" is not a part of their corporate names, shall have the right to operate and conduct a trust department, become trustees for any purpose, be appointed and act as executors, administrators, guardians and receivers and do any business and exercise any powers incident to the business of trust and banking companies doing banking business after the board of directors of the corporation shall have adopted an appropriate resolution and obtained the written approval of the superintendent authorizing the conduct and operation of a trust department, and a copy of such resolution and written approval certified to by the president and cashier of such bank under the corporate seal of such corporation shall have been filed in the office where the certificate of incorporation of the bank has been filed.

Section 5-11-2: Written approval of superintendent to conduct trust business.

No bank shall have the right to operate or conduct a trust department or become a trustee or a fiduciary without having received the prior written approval of the superintendent and otherwise complied with the preceding section, even though the certificate of incorporation of the bank might contain language covering such authority.

Section 5-11-3: Capital stock requirements for trust companies.

No trust company hereafter organized under the laws of Alabama shall have total initial capital accounts actually paid in of less than \$1,000,000.

Section 5-11-4: Use of word "trust" in corporate or partnership name.

No corporation which is not organized and operating as a trust company or as a bank or as a combined bank and trust company which has not complied with the requirements of sections 5-11-1 and 5-11-3 shall use the word "trust" as a part of its corporate name, and no such corporation shall use the word "trust" in connection with the business of said corporation with intent to give the impression that such corporation is organized and operating as a trust company in accordance with the provisions of sections 5-11-1 and 5-11-3. Any corporation violating any of the provisions of this section shall thereby make void the organization of such corporation, and its stockholders shall thereupon become liable as partners. No limited partnership or other partnership shall use the word "trust" as part of its name.

Section 5-11-5: Deposit of security for operation of trust business - amount required and form; charges against deposit.

Any corporation organized and operating as a trust company or as a bank authorized by law to do a trust business may deposit with the state treasurer or elsewhere United States bonds, bonds, notes or debentures of any federal agency such as a federal land bank, banks for cooperatives, farm home administration, Federal National Mortgage Association, etc., Alabama bonds, bonds of any city or county in the state of Alabama or mortgages which are first liens on real estate, worth in each case double the face of the mortgage, situated in this state, to an amount not less than \$25,000.00, and may increase said deposit from time to time or reduce the same to an amount not less than \$25,000.00, or may withdraw the deposit entirely, provided such trust companies or banks have made final settlement and accounted for all assets in

their possession and under their control by reason of any appointment under this chapter. Immediately upon the appointment of any bank or trust company to act as guardian, administrator, executor, receiver or trustee or other fiduciary by the judge of any court in this state, under section 5-11-9, said judge shall certify such appointment under his seal of office to the state treasurer, giving the name and amount of assets of the estate or cestui que trusts; and, upon receipt of said certificate, the state treasurer shall charge against any deposit the liability under said appointment.

**Section 5-11-6:** Same - State treasurer to decline certain bonds or securities.

The state treasurer shall decline to receive bonds or other securities of a market value less than par and may, in his discretion, decline to receive any bonds or other securities that he considers unsafe or unsuitable for the purpose.

**Section 5-11-7:** Same - Certificate of deposit, purpose.

The state treasurer shall, from time to time, furnish the company making such deposit with a proper certificate showing the fact of the deposit and containing an exact description of the bonds or other securities deposited. Such deposit is to secure the payment of all liabilities of the company making the deposit as a guardian, administrator, executor, receiver, trustee or other fiduciary under appointment of any court of this state where the company has claimed exemption from giving bond by reason of having this deposit, and all such liabilities shall constitute a first claim on said bonds or other securities deposited as against all other liabilities of said company.

**Section 5-11-8:** Sale of bonds or securities for satisfaction of judgment against trust company.

When any person, firm or corporation has established by final court proceedings a claim against said company to secure which said bonds or other securities were deposited and said claim is not paid within 30 days by said company, the state treasurer shall proceed forthwith to sell a sufficient number of said bonds to pay the judgment against said company and pay said judgment by paying the amount to the proper official of the court wherein said judgment exists.

**Section 5-11-9:** Exemption of trust companies, etc., acting as administrators, etc., from bond requirements.

Any trust company or bank which is authorized by law to act as

a guardian, administrator, executor, receiver or trustee, except as may be otherwise provided in this Code for the administration of the affairs of war veterans, under appointment of any court of this state, and which maintains the deposit provided for in section 5-11-5, shall be entitled as a matter of right to exemption from giving bond before receiving authority to act in any of the above capacities, provided its aggregate liabilities, to secure which said bonds or other securities are deposited, do not exceed five times the par value of said securities. When such company desires exemption from giving any such bond, it shall file with the officer who would otherwise require such bonds a sworn statement showing the amount in value of the bonds or other securities on deposit with the state treasurer, and that the liabilities of the company protected by such deposit do not exceed five times the par value of said bonds or other securities, together with a certificate from the state treasurer showing the amount of such deposit.

**Section 5-11-10:** Withdrawal of bonds or securities from deposit with trustees.

All trust companies organized under the laws of this state which are now required by their charters to keep on deposit with trustees any bonds, stocks or other securities to be held subject to the payment of any judgment which may be rendered against said companies may, upon making a deposit of securities in accordance with the provisions of section 5-11-5 withdraw from the custody of said trustees said bonds, stocks or other securities so deposited with said trustees and shall not thereafter be required to maintain any such deposit with trustees, any provisions of the charter of said companies to the contrary notwithstanding.

**Section 5-11-11:** Interest on bonds or securities deposited with treasurer payable to trust companies.

The interest falling due from time to time on bonds or other securities on deposit with the state treasurer in accordance with section 5-11-5 shall be payable to the corporation depositing such bonds or other securities, and the treasurer may send to such corporation a reasonable time before each interest period the coupons or interest note representing the interest to become due at such interest period.

## **Chapter 12 - ADMINISTRATION, ETC., OF COMMON TRUST FUNDS**

**Section 5-12-1:** Definitions.

As used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly

indicates otherwise:

(1) **TRUST INSTITUTION.** Any state bank, any national bank or any trust company authorized to act in a fiduciary capacity in this state and under the supervision of the comptroller of the currency of the United States or the federal reserve system, or the superintendent of banks of the state of Alabama.

(2) **AFFILIATED TRUST INSTITUTION.** A trust institution which, together with one or more other trust institutions, are each owned or controlled by a bank holding company which is under the supervision of the board of governors of the federal reserve system.

(3) **OWNED OR CONTROLLED.** The ownership by a bank holding company of stock possessions of at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock (other than nonvoting stock which is limited and preferred as to dividends) of the trust institution.

(4) **FIDUCIARY.** Any trust institution or person acting in the capacity of executor, administrator, administrator with the will annexed, administrator de bonis non, guardian, testamentary trustee, trustee appointed by any court and trustee, agent or custodian under any written agreement, declaration or instrument of trust, either solely or together with others.

(5) **COMMON TRUST FUND.** A fund established, maintained and administered pursuant to the requirements of this chapter by a trust institution exclusively for the collective investment and reinvestment of moneys contributed thereto by such trust institution in its capacity as a fiduciary or cofiduciary or by an affiliated trust institution in its capacity as a fiduciary or cofiduciary.

(6) **ESTATE OR ESTATES.** Such term shall include any trust, estate or fund administered by a trust institution in a fiduciary capacity.

(7) **PARTICIPATION.** The interest of a participating trust in the common trust fund.

(8) **PARTICIPANT.** Any trust, estate or fund administered by a trust institution in a fiduciary capacity having a "participation."

(9) **SECURITY OR SECURITIES.** Such term shall include all types of property in which the trust institution is authorized to invest the assets of the common trust fund.



Section 5-12-2: Trust institutions may establish, etc., common trust funds.

Any trust institution may establish, maintain and administer one or more common trust funds.

Section 5-12-3: Investments by trust institutions.

Any trust institution, in its capacity as fiduciary or cofiduciary, whether such fiduciary capacity arose before or was created after July 8, 1943, may invest funds which it lawfully holds for investment in such capacity in interests or participations in one or more common trust funds, if such investment is not prohibited by the instrument, judgment, decree or order creating the fiduciary relationship and if, in the case of cofiduciaries, the trust institution procures the consent of its cofiduciary or cofiduciaries to such investment.

Section 5-12-4: Common trust fund plan.

Each common trust fund shall be established and maintained in accordance with a written plan (referred to herein as the plan) approved by resolution of the board of directors of the trust institution and approved in writing by competent legal counsel. The plan shall provide that the common trust fund shall be administered under the laws of this state and of the United States and in conformity with the rules and regulations promulgated from time to time under authority of such laws and shall contain such full and detailed provisions, not inconsistent with the provisions of this chapter, as to the manner in which the common trust fund is to be operated, the investment powers with respect to the common trust fund, the allocation and apportionment of income, profits and losses, the terms and conditions governing the admission or withdrawal of investments or participations in the common trust fund, the auditing and settlement of accounts of the trust institution with respect to the common trust fund, the basis and method of valuing securities in the common trust fund, the basis upon which the common trust fund may be terminated and such other matters as may be necessary to define clearly the rights of participants in the common trust fund. A copy of the plan shall be available at the principal office of the trust institution for inspection during all regular business hours to any person having an interest in a participation in the common trust fund. The plan may or may not provide for the amortization of the premium upon bonds or other obligations, the disposition of discounts and profits and the allocation of the same to principal or income accounts or the apportionment of the same between principal and income accounts, the establishment and maintenance of a reserve out of current

interest from mortgage investments against which realized losses on mortgages may be charged and other like matters. The provisions of the plan shall control all participants therein and the rights and benefits of all persons interested in such participations as beneficiaries or otherwise.

**Section 5-12-5: Amendment of plan.**

The plan may be amended from time to time by the fiduciary with the approval of the board of directors of the trust institution. Any such amendment shall be filed with the original plan, together with a certified copy of the resolution of the board of directors of the trust institution approving the same.

**Section 5-12-6: Control of investments by instrument under which trust institution acts.**

If the instrument under which a trust institution acts as fiduciary, whether such fiduciary capacity arose before or is created after July 8, 1943, shall either expressly or by its silence limit or restrict the investment of moneys of the estate and securities to the class authorized by law as legal investments, the trust institution may, in its capacity as sole fiduciary or with the consent of any person acting with it in a fiduciary capacity, invest and reinvest moneys of the estate in any such common trust fund maintained by the trust institution or by an affiliated trust institution, provided, the securities composing such fund consist solely of securities of the class authorized as legal investments for funds held by a fiduciary. If the instrument under which the trust institution acts as fiduciary, whether such fiduciary capacity arose before or is created after July 8, 1943, shall authorize investments of moneys of the estate in a common trust fund or in investments other than those designated by law as legal investments or shall authorize the trust institution, either alone or in conjunction with any person acting with it in a fiduciary capacity, to exercise its or their discretion with respect to the investment of moneys of the estate, the trust institution may, in its capacity as sole fiduciary or with the consent of any person acting with it in a fiduciary capacity, invest and reinvest moneys of the estate in any such common trust fund maintained by it or by an affiliated trust institution. Any such common trust fund consisting solely of moneys of estates contributed thereto by the trust institution pursuant to authority contained in any such instrument creating the fiduciary capacity to invest moneys of the estates in a common trust fund or in investments other than legal investments or pursuant to such discretionary powers with respect to the investment of moneys creating the fiduciary capacity may be composed of investments other than those of the class designated by law as legal investments

for funds held by fiduciaries. In order to determine whether the investment of funds received or held by a trust institution as fiduciary in a participation in a common trust fund is proper, the trust institution may consider the common trust fund as a whole and shall not, for example, be prohibited from making such investment because any particular asset is nonincome-producing.

**Section 5-12-7. Investment of estate moneys in fund; withdrawals.**

The trust institution shall invest the moneys of an estate (whether the estate is administered by such trust institution or by an affiliated trust institution) in such common trust fund by adding the same thereto and by apportioning a participation therein to such estate in the proportion that the moneys of the estate added thereto bears to the aggregate value of all the securities of such fund at the time of such investment, including in such securities the moneys of the estate so added. The withdrawal of a participation of such common trust fund shall be on the basis of its proportionate interest in the aggregate value of all the securities of such fund at the time of such withdrawal, as hereinafter provided. The participating interest of any estate in such common trust funds may, from time to time, be withdrawn in whole or in part by the trust institution administering the estate and shall be withdrawn within a period of three months following the written request so to do of any person acting with the trust institution administering the estate in a fiduciary capacity. Funds for the purpose of any withdrawal shall be made promptly available by the trust institution through sale of securities of the common trust fund. Upon such withdrawals, the trust institution may make distribution in cash or ratably in kind or partly in cash and partly in kind; provided, that all such distribution as of any one time shall be made on the same basis.

**Section 5-12-8: Record of fiduciary accounts owning interest in fund; extent of interest.**

The trust institution shall designate clearly upon its records the names of the fiduciary accounts which own a participation in the common trust fund and the extent of the interest of such fiduciary accounts therein. No fiduciary account owning or holding an investment or participation in a common trust fund shall be deemed to have individual ownership of any asset in such common trust fund, but should be deemed to have only a proportionate undivided interest in the common trust fund.

**Section 5-12-9: Annual audit.**

At least once during each period of 12 months, the trust

institution shall cause an audit to be made of the common trust fund by an auditor or auditors responsible only to the board of directors of the trust institution. The report of such audit shall include a list of the investments comprising the common trust fund at the time of the audit, which shall show the valuation placed on each item as of the date of the audit, a statement of purchases, sales and any other investment changes and of all income and disbursements during the period to which the audit relates. The period of the first audit shall commence with the establishment of the common trust fund, and each succeeding audit shall commence at the end of the period covering the preceding audit. The reasonable expense of any such audit may be charged to the common trust fund, and a copy of such audit shall be available at the principal office of the trust institution for inspection during all regular business hours to any person having an interest in a participation in the common trust fund; provided, that the trust institution shall be required to furnish a copy of such audit to any person having a share in the investments of the common trust fund without expense to such person should the interested person request a copy of such audit.

**Section 5-12-10: Quarterly valuation of securities in fund.**

No less frequently than once during each period of three months, the trust institution administering a common trust fund shall determine the value of the securities in the common trust fund as of the dates set for the valuation thereof. No participation shall be admitted to or withdrawn from the common trust fund, except (1) on the basis of such valuation and (2) as of such valuation date.

**Section 5-12-11: Management and control of fund; ownership of assets.**

The trust institution shall have the exclusive management and control of each common trust fund administered by it and the sole right at any time to sell, convert, exchange, transfer or otherwise change or dispose of the assets comprising the same. The ownership of such assets shall be solely in the trust institution as fiduciary and shall be considered as assets held by it as fiduciary. A trust institution shall not invest any of its own funds in a common trust fund administered by it or by an affiliated trust institution; and, if the trust institution, because of a creditor relationship or any other reason, acquires any interest in a participation in such common trust fund, the participation shall be withdrawn on the first date on which such withdrawal can be effected; however, in no case shall an unsecured advance to a participant until the time of the next withdrawal be deemed to constitute the acquisition of an interest by a trust institution. A trust institution may charge a fee for the management of a common trust fund administered by it; provided,

that the fractional part of such fee proportionate to the interest of each participant shall not, when added to any other compensations charged by the trust institution or by an affiliated trust institution to the participant, exceed the total amount of compensations which would have been charged to said participant if no assets of said participant had been invested in participations in the common trust fund.

**Section 5-12-12: Mistakes in administration of fund.**

No mistake made in good faith and in the exercise of due care in connection with the administration of a common trust fund shall be deemed to be a violation of this chapter or of any rules or regulations issued pursuant thereto if promptly after discovery of the mistake the trust institution takes whatever action may be practical in the circumstances to remedy the mistake.

**Section 5-12-13: Administration, etc., of common trust funds differing from funds permitted by chapter.**

Nothing contained in this chapter shall prohibit a trust institution, when it acts in accordance with specific authority contained in the instrument or instruments under which the trust institution acts, from establishing, maintaining, administering and investing in, without regard to the requirements and limitations of this chapter, one or more common trust funds differing from the common trust funds expressly permitted by this chapter.

**Section 5-12-14: Accountings.**

Unless ordered by a court of competent jurisdiction, a trust institution administering a common trust fund shall not be required to render a court accounting with regard to such fund, but it may file returns and make accountings in the same manner and for the same purposes as is provided by law for other fiduciaries.

**Section 5-12-15: Taxation.**

A common trust fund (whether established, maintained and administered pursuant to the requirements of this chapter or established, maintained, administered and invested in without regard to the requirements and limitations of this chapter, as provided in section 5-12-13) shall not be subject to taxation under any income tax law of the state of Alabama. Each participant having a participating interest in such common trust fund in computing its net income for state income tax purposes shall include, whether or not distributed and whether or not distributable, (1) its proportionate share of any taxable net income or loss of such common trust fund, and (2) its proportionate share of

any taxable gain or loss realized on the sale or exchange of property by such common trust fund. In reporting the share of such income or of such gains or losses on sale or exchange of property of such common trust fund, each participant shall show its proportionate part of each classification thereof which may for tax purposes be accorded different treatment so as to receive the same treatment as if such income or gains or losses had been realized directly by such participant. No gain or loss shall be realized by the common trust fund or by any other participant by the admission or withdrawal of a participant. The withdrawal of any participant shall be treated as a sale or exchange by such participant of the interest withdrawn, after adjustment of cost basis to reflect its proportionate part of gains or losses realized on the sale or exchange of property of the common trust fund previously reported by such participant. Every trust institution maintaining a common trust fund shall make a return under oath for each fiscal year, stating specifically with respect to such fund the items of gross income and the deductions allowed by law, and shall include in the return the names and addresses of the participants entitled to share in the net income of such fund and the amount of the proportionate share of each. If the fiscal year of the common trust fund is different from that of a participant, the inclusions with respect to the net income of the common trust fund, in computing the net income of the participant for its taxable year, shall be based upon the net income of the common trust fund for any fiscal year of the common trust fund ending within the taxable year of the participant.

## Chapter 13 - EFFECTIVE DATE AND TRANSITION PROVISIONS

### Section 5-13-1: Inconsistent Provisions in Other Laws Superseded.

Insofar as the provisions of this Act are inconsistent with the provisions of any other law, general or special, the provisions of this Act shall be controlling.

### Section 5-13-2: Severability.

If any clause, sentence, paragraph, section or part of this Act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

### Section 5-13-3: Specific Repealer.

The following sections and all other sections and parts of sections in the Code of Alabama 1975, as amended, inconsistent herewith, except the provisions of Sections 34-27-1 through 34-27-38, are hereby repealed.

5-1-1 through 5-1-40; 5-2-1 through 5-2-16, 5-2-30, 5-2-40 through 5-2-45, 5-3-1 through 5-3-16, 5-4-1 through 5-4-6, 5-5-1 through 5-5-19, 5-6-1 through 5-6-3, 5-6-20 through 5-6-29, 5-7-1 through 5-7-5, 5-8-1 through 5-8-7, 5-9-1 through 5-9-6, 5-9-20 through 5-9-24, 5-9-40 through 5-9-43, 5-10-1 through 5-10-7, 5-10-20 through 5-10-56, 5-11-1 through 5-11-6, 5-12-1 through 5-12-6, 5-13-1 through 5-13-19, 5-14-1 through 5-14-11, 5-15-1 through 5-15-15.

This act is not intended to limit or restrict activities of savings and loan associations or credit unions now or hereafter lawfully authorized. Specifically, nothing contained herein shall be construed so as to alter, amend or repeal any of the provisions of §§5-2-60 through 5-2-63, 5-2-100 through 5-2-125, 5-16-1 through 5-16-53 and 5-17-1 through 5-17-28 relating to savings and loan associations and credit unions.

#### Section 5-13-4: Effect of Repeal of Prior Acts.

The repeal of a prior act by this Act shall not impair, or otherwise affect, the organization or the continued existence of an existing bank. Nor shall the repeal of a prior act by this Act affect any right accrued or established, or any liability or penalty incurred, or the construction of the certificate of incorporation or charter of any bank organized before the enactment of this Act, or the determination of the rights and interests of any of its shareholders or creditors, under the provisions of such prior act before the repeal thereof.

#### Section 5-13-5: Effective Date.

This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved May 28, 1980

Time: 4:00 P.M.

To provide that no part of the net earnings of any authority organized pursuant to the Historical Preservation Authorities Act of 1979 shall inure to the benefit of any private person, firm or corporation; to exempt any such authority from the provisions of the laws of Alabama governing usury or prescribing interest rates; and specifying that all the aforesaid provisions shall apply both prospectively and retrospectively except in certain specified cases.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each authority heretofore or hereafter organized pursuant to the Historical Preservation Authorities Act of 1979 (Act No. 441 adopted at the 1979 Regular Session of the Legislature of Alabama, included in the pocket parts as Article 5 of Chapter 10 of Title 41 of the Code of Alabama 1975), shall be a non-profit corporation, and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any private individual, firm, or corporation; except that in the event the governing body of any such authority shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of such authority, then any net earnings thereafter accruing to such authority may be paid to the State of Alabama.

**Section 2.** Each such authority is and shall be exempt from the laws of the State of Alabama governing usury or prescribing or limiting interest rates, including, without limitation, the provisions of Chapter 8 of Title 8 of the Code of Alabama 1975.

**Section 3.** The provisions of this Act shall apply both prospectively and retrospectively, except that this Act shall not apply retrospectively so as to validate, cure or remedy any act taken by an authority where such action has, prior to the effective date of this Act, been held invalid by a court of competent jurisdiction and the period for appeal therefrom has expired or where such action is alleged to be invalid in an appropriate suit or proceeding pending in any court of competent jurisdiction on the effective date of this Act.

**Section 4.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 6.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.



Act No. 80-660

H.J.R. 289—Reed

## HOUSE JOINT RESOLUTION

HONORING THE COMMODORES, THE PRIDE OF TUSKEGEE, AND THAT CITY'S MUSICAL GIFT TO THE WORLD.

WHEREAS, it is with great pride and pleasure that the Legislature joins with the City of Tuskegee in paying tribute to the Commodores on May 24, 1980, "Commodores Celebration Day," as proclaimed by Mayor Johnny Ford; and

WHEREAS, even as Tuskegee is a "pride of the growing South," the Commodores are the "Pride of Tuskegee," as this world famous, top musical group had its beginning at Tuskegee Institute in 1967; and

WHEREAS, once born, the Commodores grew and their phenomenal rise to the top has known no bounds; in one six-year period alone, the sensational six Commodores had seven "top five" pop singles, five other "top ten" rhythm-and-blues singles and four "top five" albums; and

WHEREAS, while record and album record sales of other artists "go gold," for the Commodores, its triple platinum and, on tour, they are record breakers as well; their U. S., European and world-wide tours are SRO, setting attendance records that may never be broken; and

WHEREAS, it is to be noted that Tuskegee, Alabama, is still "home" to Commodores William King, Ronald La Pread, Thomas McClary, Walter "Clyde" Orange, Lionel Richie, Jr., and Milan Williams; Benny Ashburn, the seventh Commodore, has been the group's personal manager since 1968; and

WHEREAS, Tuskegee's famous Commodores are further to be commended on the personal success of their private lives, maintaining stable family relationships and cherishing their close hometown ties; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend the Commodores of Tuskegee, Alabama, and voice our deep appreciation for the fame and honor their "Midnight Magic" has brought to their city and to the entire State of Alabama as well.

BE IT FURTHER RESOLVED, That on Commodores Celebration Day, each of the Commodores be presented with a copy

of this resolution, tendered in appreciation and praise, and as evidence of our warm personal regards.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-661

H. 1130—Johnson (R.G.)

AN ACT

Relating to Coosa County; to relieve the judge of probate from charging a fee when celebrating the rites of matrimony; and to provide that any such fee when charged by the judge of probate may be retained by him.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The judge of probate of Coosa County is hereby authorized, at his discretion, to not charge for celebrating the rites of matrimony. Any such fee, when charged by the judge of probate, may be retained by the judge of probate.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-662

H. 1103—Holley, Ray

AN ACT

Relating to Coffee County; providing further for the establishment and composition of the county jury commission and repealing Act No. 571, S. 468, 1953 Regular Session (Acts 1953, p. 813).

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Coffee County, the county jury commission shall be established and maintained according to the provisions of Title 12, Chapter 16, Article 2 of the Code of Alabama 1975.

**Section 2.** All laws or parts of laws which conflict with this act are repealed and Act No. 571, S. 468, 1953 Regular Session (Acts

1953, p. 813), is hereby specifically repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-663

H. 1113—Daniels

### AN ACT

To repeal Act No. 260, H. 879, approved April 26, 1977, Regular Session 1977 (Acts 1977, p. 346), entitled "An Act Relating to counties having a population of not less than 21,000 nor more than 22,000 according to the 1970 or any subsequent federal decennial census; to provide further for the salary and expense allowance of the superintendent of education."

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act No. 260, H. 879, approved April 26, 1977, Regular Session 1977 (Acts 1977, p. 346), entitled "An Act Relating to counties having a population of not less than 21,000 nor more than 22,000 according to the 1970 or any subsequent federal decennial census; to provide further for the salary and expense allowance of the superintendent of education," is hereby expressly repealed.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-664

H. 1106—Moore

### AN ACT

To repeal Act No. 250, H. 874 of the 1975 Regular Session (Acts 1975, p. 783), relating to Shelby County, entitled "An Act To prohibit the probate judge or any other official or any employee of Shelby County from selling, lending, giving, or otherwise disposing of a computer printout of the list of registered voters of Shelby County."

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act No. 250, H. 874 of the 1975 Regular Session

(Acts 1975, p. 783), entitled "An Act To prohibit the probate judge or any other official or any employee of Shelby County from selling, lending, giving, or otherwise disposing of a computer printout of the list of registered voters of Shelby County," is hereby repealed.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-665

H. 1101—Smith (C)

AN ACT

Relating to Chilton County; providing for an additional expense allowance for the county treasurer.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Chilton County, the county treasurer is hereby entitled to receive an expense allowance of \$50.00 per month. Said expense allowance shall be in addition to any and all other salary, expense allowances, or compensation heretofore provided by law and shall be payable out of the general fund of the county.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-666

H. 1102—Dial

AN ACT

Relating to Cleburne County; providing further for the compensation of elected officials.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each election official of Cleburne County shall

receive the rate of the minimum wage for each hour, or fraction thereof, that the polls are open per day for the performance of his official duties. The county governing body of Cleburne County shall supplement the compensation already provided by the general law of the state with funds out of the county general fund sufficient to bring said compensation up to the amount provided for by this act; provided, however, in any municipal election in which the official serves, the supplement provided for herein shall be paid by the municipality in which such election is held.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws whether general, special, or local which directly conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-667

H. 1104—Reed

### AN ACT

Relating to Macon County; increasing the salaries of the deputies sheriff and other employees of the sheriff's department.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Macon County, the employees of the sheriff's department shall be entitled to receive annual salaries as follows:

1 Chief Deputy	\$16,556.80
1 Investigator	15,870.40
1 Junior Investigator	12,188.80
Senior Deputies	12,916.80
3 Junior Deputies	12,188.80
Jailors	7,500.00
Secretary	10,000.00

The salaries herein provided shall be payable in equal monthly installments from the general fund of the county and be the total compensation, in lieu of all other salaries, expense allowances or other compensation heretofore payable by law.

**Section 2.** Deputies sheriff shall be hired in the position as junior deputies, and at the discretion of the sheriff, with increased experience and training, be promoted to the position of senior deputy.

**Section 3.** Provided, however, that the implementation of the provisions of this act shall be completely discretionary with the county commission.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-668

H. 1105—Kennedy

### AN ACT

Relating to Mobile County; providing an election officers' school in each State Senate District.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Not less than five days before an election or primary election, the authority charged with holding the same shall cause to be held a school of instruction in each State Senate District in Mobile County for those who will actually conduct the election or primary election at the polling places. The sheriff shall notify such election officials of the time and place of the holding of such school of instruction, and shall also publish notice at least 48 hours before the same is to be held.

**Section 2.** No election official shall serve in any election district in which a voting machine is used, unless he shall have received such instruction and is fully qualified to perform the duties in connection with the machine, and has received a certificate from the authorized instructor to that effect; provided, that this shall not prevent the appointment of an uninstructed person as an election official to fill a vacancy among the election officials.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such

declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-669

H. 1109—Greer, Starkey

### AN ACT

To extend, alter, and rearrange the boundaries and corporate limits of the City of Florence so as to annex certain adjacent territory to the City of Florence.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines and corporate limits of the City of Florence be and the same are hereby extended, altered, and rearranged so as to include within the corporate limits of the City of Florence all of the following additional adjacent territory in Lauderdale County, Alabama, situated, to-wit:

#### TRACT 1

A tract of land lying and being in Lauderdale County, Alabama, more particularly described as follows, to-wit: Beginning at the intersection of the East line of Seville Street, as shown on plat of Brookwood East Plat Two Subdivision according to the plat thereof recorded in the office of the Judge of Probate of Lauderdale County, Alabama, in Plat Book 5, Page 23, and the North Right-of-Way line of U.S. Highway No. 72, said point being on the present city limit of Florence, Alabama; thence South with said city limit to the South line of aforesaid U.S. Highway No. 72; thence northeastwardly with the South line of said U.S. Highway No. 72 to the West line of Rivermont Drive as shown on Plat of Rivermont Subdivision recorded in Plat Book 3, Pages 36 and 37, of aforesaid records; thence northwestwardly to the intersection of the westwardly line of Dowdy Drive as shown on the plat of Resurvey Morningside Heights, recorded in Plat Book 3, Page 176, of aforesaid records, and the North line of aforesaid U.S. Highway No. 72; thence southwestwardly with the North line of said U.S. Highway No. 72 to the point of beginning.

## TRACT 2

Being a part of Section 4, Township 3 South, Range 10 West and part of Section 33, Township 2 South, Range 10 West, in Lauderdale County, Alabama, more particularly described as beginning at the Northwest corner of said Section 4; thence North with the West line of said Section 33 to a point on the West line of Indian Springs Road as described in Book 1029, Page 25 in the office of the Judge of Probate of Lauderdale County, Alabama; thence North with the West line of said Indian Springs Road to the South line of U.S. Highway No. 72 (Lee Highway); thence North 66 degrees 15' East along the South line of said Highway No. 72 a distance of 800 feet, more or less, to the West line of Rivermont Drive as shown on plat of Rivermont Subdivision, recorded in the office of the Judge of Probate of said County in Plat Book 3, Pages 36 and 37; thence Southwardly with the West line of said Rivermont Drive to the Northeast corner of Lot 4, Block 1 of said Rivermont Subdivision; thence West with the South line of said lot 4 a distance of 220 feet to the Northwest corner thereof; thence Southwardly with the West line of said Rivermont Subdivision to the intersection of the Indian Springs Corporation tract as described in Book 971, Pages 651-654, of aforesaid records and the rear line of Lot 11, Block 2 of said Rivermont Subdivision; thence South 1 degrees 22' East with the East line of said Indian Springs Corporation tract to the Eastwardly line of aforesaid Indian Springs Drive; thence Southeastwardly with the Eastwardly line of said Indian Springs Drive to the North line of aforesaid Section 4; thence North 87 degrees East along said North line 3423 feet, more or less, to the Southwest corner of the Raymond Graham lot as described in Book 1108, Page 784, of aforesaid records; thence North 3 degrees 45' West 150 feet; thence North 26 degrees West 150 feet; thence North 64 degrees East 250 feet, more or less, to the 505 contour line of Lake Wilson; thence Southwardly, Southwestwardly and Northwestwardly along said 505 contour line 13,500 feet, more or less, to the West line of said Section 4; thence North 3 degrees 45' West with said West line 291 feet, more or less to the point of beginning.

## TRACT 3

A tract or parcel of land lying and being in the Northeast  $\frac{1}{4}$  of Section 6, Township 3 South, Range 10 West, the South  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 31, Township 2 South, Range 10 West, and the South  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  of Section 31, Township 2 South, Range 10 West, Lauderdale County, Alabama, more particularly described as beginning at the Southwest corner of the Southeast  $\frac{1}{4}$  of Section 31, Township 2 South, Range 10 West,



said point also being on the present City limits line; thence Westwardly along the South line of said Section 31 and the present City limits line for a distance of 665.6 feet, more or less, to the intersection with the South line of Highway U.S. No. 72; thence along the South line of Highway U.S. No. 72, North 72 degrees 46 minutes East for a distance of 683.8 feet to a point on the  $\frac{1}{2}$  Section line of said Section 31; thence continuing along the South line of Highway U.S. No. 72, North 72 degrees 46 minutes East for a distance of 1,773.05 feet; thence South 10 degrees 56 minutes East for a distance of 265 feet; thence South 78 degrees 55 minutes West for a distance of 199.55 feet; thence South 10 degrees 56 minutes East for a distance of 290.40 feet; thence South 85 degrees 48 minutes West for a distance of 16.26 feet; thence South 11 degrees 09 minutes East for a distance of 1,287 feet to a point on the present City limits line; thence along said city limits line; South 85 degrees 48 minutes West for a distance of 180 feet, more or less, to a point of intersection with the present North-South City limits line; thence along said North-South City limits line, Northwardly for a distance of 1,280 feet, more or less, to a point on the North line of aforesaid Section 6 said point being 1,080 feet West of the Northeast corner of said Section 6; thence Westwardly along the North line of said Section 6 and the present City limits line for a distance of 1,560 feet, more or less, to the point of beginning.

**Section 2.** This Act shall take effect immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-670

H. 1110—Bowling

### AN ACT

Relating to Winston County; to provide further for the compensation of the county jury commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The jury commission of Winston County shall receive a total compensation, including any amount paid by the state, of \$25.00 per day in which they are involved in carrying out the duties of the commission. Any additional amount required to be paid under provisions of this Act shall be paid out of the county general fund.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-671

H. 1114—Greer

### AN ACT

Relating to Lauderdale County; amending Act No. 79-107, H. 171, 1979 Regular Session, (Acts 1979, p. 129) entitled "An Act Relating to Lauderdale County; to create the office of County License Commissioner in said county; to prescribe the manner of appointment, term, compensation, duties and realm of authority of commissioner; to prescribe more convenient and efficient procedures for assessment and collection of certain taxes and the issuance of licenses by said commissioner; to abolish the office of County License Inspector and transfer the duties of said office to the County License Commissioner; to transfer certain duties now performed by the tax assessor and tax collector to said commissioner; to prescribe fees, charges and commissions which may be collected by said commissioner pursuant to this Act; to provide for the disposition of the proceeds thereof and to require certain reports relative thereto," so as to provide further for the duties of said commissioner.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16 of Act No. 79-107, H. 171, 1979 Regular Session (Acts 1979, p. 129), is hereby amended to read as follows:

"Section 16. On or after the first day of August each year, and no later than the thirtieth of September, the County License Commissioner shall mail a form requesting the information hereinafter specified to all owners of motor vehicles. Such form shall be provided by the state department of revenue and shall contain spaces for the name and address of the owner of the motor vehicle, the make, the model and serial number of the vehicle and such other information with respect thereto as the department of revenue may prescribe. The form shall also contain a space for the correct amount of the ad valorem taxes (state, county, school district and municipal), the amount of the motor vehicle license due thereon, the issuance fee and the mailing fee provided for herein; it shall also contain a space for the owner to fill in his present address if different from that shown in the application form and a space for his signature. The form shall be filled in by said department with the name and address of the owner, the description of the motor

vehicle, the license tax and fees to become due on October first as shown on the license registration and transfer records, and the amount of ad valorem tax due on said motor vehicle for the preceding tax year. Said commissioner shall then cause the application form so filed to be mailed to the owner of the motor vehicle at his address shown thereon. The owner of the motor vehicle, if he is still the owner of the motor vehicle, and if he desires to pay his motor vehicle ad valorem taxes and license tax and secure his motor vehicle registration tag by mail, shall sign the application form, indicating thereon any change of address and return the same by mail by October 15 with his remittance for ad valorem taxes, license taxes and fees as shown thereon to the commissioner. Money orders and checks for payment of such taxes shall be made payable to the County License Commissioner. Upon receipt of the signed application form and remittance for the amount properly due for ad valorem tax and fees, the County License Commissioner shall thereupon mail a receipt for such taxes and fees and the license tag for his motor vehicle to the owner thereof. When an application form is returned to said commissioner unsigned or with less than the correct amount of the taxes and fees, such form shall be returned to the owner for correction or for signature. A return of such application or remittance shall not be construed as a time extension for such payment. The County License Commissioner is hereby authorized to establish rules and regulations necessary to implement the sale of tags by financial institutions or other organizations located in various municipalities and communities located within the county. The License Commissioner shall have broad discretion in determining the organizations at which the tags may be sold. The License Commissioner shall promulgate all rules necessary as to the bonding of sellers of the tags and the amount added to the price of the tag to cover the additional costs involved in such sales, provided, however said amount shall not exceed \$.75 per tag and shall be collected by the seller. In addition to any and all other charges or fees, the License Commissioner is authorized to charge an amount up to \$.50 per tag to pay for the costs of postage for mailing out the forms provided for herein."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

## AN ACT

Relating to Franklin County; to provide for the establishment of fees by the county commission based upon, but not bound by, recommendations of the county board of health for public health services.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county board of health of Franklin County, which is a part of the Northwest Alabama Regional Health Department, is hereby authorized to recommend reasonable fees or charges to the governing body of said county and the governing body shall establish the actual amount of the fee, with or without regard to such recommendations, for the rendering of public health services within said county to members of the public. Such fees shall supplement, but not replace, local, state, and federal appropriations.

**Section 2.** The governing body of Franklin County shall promulgate and fix a reasonable schedule of fees to be charged and collected from, or on behalf of, persons receiving public health services, and the amount of such fees shall include charges for personal services, inspections, and the expenses intendant upon said services such as the expenses of necessary drugs, supplies, travel, and the cost of personnel time. Restaurant inspections and food handlers examinations are specifically excluded from charges.

**Section 3.** All fees and receipts collected shall be paid over to the Regional Health Officer of the Northwest Alabama Regional Health Department and deposited in a bank and shall be expended for the support, maintenance, and operation of the public health services in said county.

**Section 4.** Funds collected under this act may be utilized as matching funds from other available sources.

**Section 5.** Services will not be denied any indigent person.

**Section 6.** In case of grievance, the aggrieved party may petition the County Health Officer in writing for an informal hearing. If satisfaction is not reached, the aggrieved party may then petition the Chairman of the County Board of Health in writing for a formal hearing before the County Board of Health.

**Section 7.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-673

H. 1116—Naramore

### AN ACT

Relating to Walker County; amending Sections 5, 6, 7 and 14 of Act No. 200, H. 120, 1969 Special Session (Acts 1969, p. 263) relating to the county civil service system, so as to provide further for the appointment, compensation and duties of the Civil Service Board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 5, 6, 7 and 14 of Act No. 200, H. 120, 1969 Special Session (Acts 1969, p. 263) are hereby amended to read as follows:

“Section 5. There is hereby created the Civil Service Board of Walker county, which shall be composed of five members appointed by the Governor, upon nomination in writing by members of the Walker County legislative delegation as follows: Each senator and each representative may submit not more than three nominations for each place to be filled, and the appointment, or appointments, shall be made from among those persons thus nominated; if the same person is nominated by all members of the delegation, the person thus nominated shall be appointed; if the legislative delegation is divided, the nominee favored by the majority shall be appointed. If no person receives a majority nomination, each member of the legislative delegation may forthwith submit in writing an additional nominee until some person receives a majority nomination and such person shall be forthwith appointed. Of the first members of the Board one shall be appointed for a term of two years, one for a term of four years, and one for a term of six years. Of the members added by the 1976 amendment, one shall serve a term of two years and one for a term of four years. All successors shall be appointed for terms of six years. No Board member shall exercise or perform any of their duties after the date of the expiration of their term of appointment. No person shall be appointed to the Board who is not a resident and qualified elector of

Walker County and over the age of twenty-one years. No member of the Board shall hold any office of profit under a city, county, or the State of Alabama. Members of the Board shall take the constitutional oath of office, which shall be filed in the office of the probate judge. Vacancies on the Board shall be filled for the unexpired term by the Governor, in the same manner as original appointments. Nominations to fill a vacancy must be submitted to the Governor within thirty days after the vacancy occurs, and the Governor must make the appointment forthwith. The members of the Board shall elect a chairman and secretary from among their number. Any member of the Board who becomes a candidate for, or is appointed or elected to another public office vacates his office as a member of the Board, and the chairman or president of the governing body of Walker County shall forthwith notify the Governor, who shall fill the vacancy as provided in this section. Any member who is absent from six or more meetings during any one year thereby vacates his position on the Board. The chairman of the Board, upon receipt of a certified letter from the Board clerk as to the excessive absences of such member, shall immediately notify the Governor of such vacancy; and the Governor shall fill the vacancy as provided in this section.

“Section 6. Members of the Board shall be entitled to receive \$50.00 for each meeting, and the Board shall meet once per month. In addition to the compensation for each meeting as fixed herein, the chairman of the Board shall be entitled to receive an hourly wage for additional responsibilities assumed in the performance of the duties of his office. The chairman shall be present at all examinations given by the clerk of the Board. The Board shall have the power to appoint clerical assistants and engage legal counsel of its own choice, who shall be paid by the county. No clerical assistant shall have any other employment other than with the Board.

“Section 7. The Board shall fix the times for its regular meetings; and it may hold special, adjourned or call meetings at any time. A majority of the Board shall constitute a quorum for the transaction of business. All meetings of the Board shall be held in the county courthouse.

“Section 14. (a) The governing body of the county, any member of the governing body, or the head of any department or office can remove, discharge or demote any employee, officer or official of the county who is subject to the provisions of this Act and who is directly under such governing body, member thereof, or department head, provided that within five days a report in writing of such action is made to the Board, giving the reason for such removal, discharge or demotion. The employee shall have ten days

from the time of notification of his discharge, removal, or demotion in which to appeal to the Board. The Board shall thereupon order the charges or complaint to be filed forthwith in writing and shall hold a hearing de novo on such charges. No permanent employee, officer, or official of the county whose employment comes within the jurisdiction of this Act, and whose probationary period has been served, shall be removed, discharged, or demoted except for some personal misconduct, or fact, rendering his further tenure harmful to the public interest, or for some cause affecting or concerning his fitness or ability; and if such removal, discharge or demotion is appealed to the Board, then the same will become final only after a hearing upon written charges of complaint has been had and after an opportunity has been given him to face his accusers and be heard in his own defense. Pending a hearing on said appeal, the Board acting on evidence presented to them, may suspend the affected employee; and after such hearing the Board may order said employee reinstated, demoted, removed, discharged or take such other disciplinary action as in their judgment is warranted by the evidence and under the law. Charges may be filed by any resident citizen of the county as follows: the charges must be in writing, must set forth succinctly the matters complained of, and must be sworn to before any member of the Board or before any person authorized to administer oaths. Upon the receipt of such charges, the Board, after due consideration, shall determine whether in its opinion it considers that the good of the service will be served by a trial thereon; and, if not, such charges may be dismissed by the Board. If in the judgment of the Board such charges are of a minor nature, such charges may be referred by the Board to the proper department head who shall make an investigation of the charges and make his recommendation to the Board within such time as the Board may prescribe, as to what disciplinary action, if any, should be taken. After such recommendation is made by the department head and after due notice is given to the affected employee of the receipt of such recommendation and the contents thereof, the Board may, in its discretion, adopt and order executed the action recommended by the department head or any part thereof. However, if the complainant or the affected employee, or both of them, objects to the recommendation of the department head, the Board shall hold a public hearing de novo on the charges, and take such disciplinary action as in their judgment is warranted by the evidence and under the law. All hearings before the Board shall be open to the public. All testimony given in all hearings before the Board shall be taken down in shorthand by a stenographer. In all cases, the decision of the Board shall be reduced to writing and entered in the record of the case. In all proceedings before the Board, the deputy district attorney or other like officer of the

county may appear and prosecute all charges instituted by the county governing body or any member thereof or by any department head, when requested or directed to do so by such county governing body. It shall not be the duty of the deputy district attorney or other like officer to prosecute any charges brought by a private citizen. In all proceedings before the Board, the deputy district attorney or other like officer may appear and represent the interests of the county, and he shall also give such legal advice and legal assistance to the Board as may be requested by it.

"The Board and its specially authorized representatives shall have the power to administer oaths, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of papers necessary as evidence in connection with any hearing, investigation, or proceeding within the purview of this Act. The sheriff of Walker County, in person or by deputy, shall serve all processes of the Board, and shall attend upon and preserve order at all public hearings conducted by the Board. In case a person refuses to obey such subpoena, the Board or its representative may invoke the aid of any circuit court in order that the testimony or evidence be produced. Upon proper showing, such court shall issue a subpoena or order requiring the person to appear before the Board or its representative and produce all evidence and give all testimony relating to the matter in issue. A person who fails to obey such subpoena order may be punished by the court as for contempt. The fees of witnesses for attendance and travel shall be the same as fees for witnesses in the circuit courts of this State, which fees shall be paid from the treasury of the county.

"(b) Any person aggrieved by a decision of the Board may appeal such decision to the circuit court of Walker County in equity within thirty days from the rendition of such decision by the Board. Review by the court shall be without a jury and be confined to the record, and to a determination of the questions of law presented; the Board's findings of fact shall be final and conclusive."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.



## AN ACT

To alter, re-arrange and extend the boundaries and corporate limits of the City of Pelham, Alabama, so as to incorporate certain territory as described herein.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** To alter, re-arrange and extend the boundaries and corporated limits of the City of Pelham, Alabama, so as to incorporate certain territory as described herein. All of the NW¼ of Section 20, Township 20 South, Range 3 West lying South and East of the Northwest right-of-way line of County Highway 11 which is not presently within the Corporate limits of the City of Pelham.

**Section 2.** The substantive provisions of this Act shall become operative only if the Act is approved by the qualified electors who reside within that part of the territory hereinabove described which is not presently included within the corporate limits of the City of Pelham, voting in a referendum election to be held on a day designated by the Probate Judge of Shelby County, not less than twenty nor more than forty days from the date of this enactment. The notice of the election shall be given by the Probate Judge of Shelby County, and the results thereof canvassed in the manner prescribed by Title 11, Chapter 42, Article 3, Code of Alabama, 1975, for giving notice of and conducting elections on the question of annexing territory to cities of twenty-five thousand or more inhabitants insofar as such provisions of said article may be appropriate; provided, however no municipal resolution of the municipal governing body need be made or filed with the Probate Judge, no need a plat of map of the territory to be annexed be filed with the Probate Judge. The question shall be on the adoption of Act No. 675 of the 1980 Regular Session of the Legislature, which alters, rearranges and extends the corporate limits of the City of Pelham, in Shelby County, Alabama. Each voter may furnish his own ballot, and if he desires to vote for the adoption of said Act there shall be written or printed on such ballot the word "Yes". If he desires to vote against the adoption of such Act the word "No" shall be written or printed on his ballot. The City of Pelham shall pay all costs and expenses incident to the election.

If a majority of the votes cast in the election are "Yes", the provisions of this Act shall become operative immediately. If the Majority are "No", this Act shall have no further effect.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the parts which remain.

**Section 4.** This act shall take effect upon its passage and

approval by the Governor, or upon its otherwise becoming law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-675

H. 1118—Waggoner

AN ACT

To alter, re-arrange and extend the boundaries and corporate limits of the City of Pelham, Alabama, so as to incorporate certain territory as described herein.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** To alter, re-arrange and extend the boundaries and corporate limits of the City of Pelham, Alabama, so as to incorporate certain territory as described herein, to wit:

Beginning at the SE corner of the SW  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of Section 11 TWP 20S Range 3 West, run West along the South boundary line of Section 11, TWP 20S, R3W a distance of 860 feet to a point. Thence turn an angle to the right and run north parallel to the east boundary line of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 11, TWP 20 S R 3 W a distance of 970 feet to a point; thence turn an angle to the right and run east parallel to the south boundary line of Section 11, TWP 20 S R 3 West a distance of 860 feet to a point on the east and east boundary line of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 11, TWP 20 S R 3 W; thence turn an angle to the right and run South along the east boundary line of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 11, TWP 20S, R 3 W a distance of 970 feet to the SE corner of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 11, TWP 20 S, R 3W. Said point being the point of beginning.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This Act shall take effect upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-676

H. 1119—Edwards, Grouby

## AN ACT

To provide for the transfer of contributions and creditable service from Clerks and Registers Supernumerary Fund, State of Alabama, for the Clerk of the Circuit Court of Lowndes County, Alabama, should he so elect; to provide that the Clerk of the Circuit Court of Lowndes County, Alabama, if he so elects, may be exempt from the Clerks and Registers Supernumerary Fund, and such service as Clerk may be under the Employees' Retirement System of Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) The Clerk of the Circuit Court of Lowndes County, Alabama, now a member of Clerks and Registers Supernumerary Fund established by and operating under, the provisions of Section 12-17-143, Code of Alabama 1975, but who has prior service under the Employees' Retirement System of Alabama, may elect to transfer to the Employees' Retirement System of Alabama his creditable service and accumulated contributions in said Clerks and Registers Supernumerary Fund.

(b) Such Clerk if he desires to transfer such creditable service and contributions shall notify the Board of Control of the Clerks and Registers Supernumerary Fund of his election to transfer such creditable service and shall authorize transfer of the amount of his accumulated contribution to his credit in the Clerks and Registers Supernumerary Fund to his account in the Employees' Retirement System of Alabama.

(c) This act applies only to the Clerk of the Circuit Court of Lowndes County, Alabama, holding such office on January 1, 1980.

(d) The Board of Control transferring said creditable service and contributions shall thereon certify to the Board of Control of the Employees' Retirement System and to the Clerks and Registers Supernumerary Fund the amount of contribution and service creditable to the Clerk at the time of separation from the transferring retirement system. The Clerk shall be credited in the Employees' Retirement System with the creditable service and accumulated contributions so certified.

(e) Upon such transfer said Clerk shall become fully covered under The Employees' Retirement System with all benefits and provisions as are provided any other member thereof.

**Section 2.** The provisions of this act are cumulative and supplemental to other law or laws relating to this subject and shall not be construed to repeal any law or part of law not directly in conflict herewith.

**Section 3.** This act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-677

H. 1121—Greer

AN ACT

Relating to Lauderdale County; providing that due to the provisions of Section 12-17-92, Code of Alabama 1975, any salary increase paid to circuit judges shall automatically result in a supplemental salary increase for the circuit clerk and providing for the retroactive effect.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Lauderdale County, when the compensation of the circuit judge is increased, the compensation of the circuit clerk shall also be increased in an amount sufficient to maintain his total salary at the same relationship which the salary of the circuit clerk of the county bears on January 16, 1977, to salaries of circuit judges in the county.

**Section 2.** The operation of this act shall be retroactive to August 8, 1979, and all actions taken and payments made pursuant thereto on and after that date are ratified and confirmed.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-678

H. 1122—Naramore

AN ACT

Relating to Walker County; to provide for the City of Sumiton in Walker County a civil service system governing the appointment, removal, salaries, tenure and official conduct of employees of the city; defining violations of the act; imposing penalties for violations; and repealing conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall apply only in the City of Sumiton in Walker County.

**Section 2.** As used in this act, unless the context clearly requires a different meaning: "city" means the City of Sumiton in Walker County; "employee" means any person, including policemen, police dispatchers, police clerk, city clerk, and stenographer not excepted by Section 3 of this act who is regularly

employed in the City of Sumiton; "board" means the civil service board created by this act; "appointing authority" means in the case of employees in the offices of the elected officers of the city, such elected officers; in the case of all other city employees, the city governing body, or the board or other agency supervising their work.

**Section 3.** The provisions of this act shall apply to all officers and employees in the service of the city or any board, agency or instrumentality thereof except: (a) elective officers; (b) members of appointive boards, commissions, and committees; (c) all employees of the city board of education; (d) attorneys, physicians, surgeons, nurses and dentists employed in their professional capacities; (e) the judge of any court; (f) independent contractors receiving their remuneration from public funds under contracts awarded by competitive bidding; (g) any person whose employment is subject to the approval of the United States government or any agency thereof; (h) employees of the waterworks and gas board or any other board or commission created by the city governing body; and employees of the street department.

**Section 4.** All employees of the city shall be governed by civil service rules and regulations prescribed in or promulgated pursuant to this act, administered by a civil service board, the creation of which is provided for in Section 5 hereof. Present employees shall remain in their respective employments during good behavior; but nothing herein shall be construed to prevent or preclude the removal of an employee for cause in the manner hereinafter provided; and such employees, except for appointment, shall be subject fully to the provisions of this act.

**Section 5.** There is hereby created the civil service board of the City of Sumiton, which shall be composed of three members appointed by the Governor, upon nomination in writing by members of the Walker County legislative delegation, as follows: the senator and each representative may submit not more than three nominations for each place to be filled, and the appointment, or appointments, shall be made from among those persons thus nominated; if the same person is nominated by all members of the delegation, the person thus nominated shall be appointed; if the legislative delegation is divided, the nominee favored by the majority shall be appointed. If no person receives a majority nomination, each member of the legislative delegation may forthwith submit in writing an additional nominee until some person receives a majority nomination and such person shall be forthwith appointed. Of the first members of the board one shall be appointed for a term of two years, one for a term of four years, and

one for a term of six years. Their successors shall be appointed for terms of six years. No person shall be appointed to the board who is not a resident and qualified elector of the City of Sumiton and over the age of twenty-one years. No member of the board shall hold any office of profit under the city, the county, or the State of Alabama. Members of the board shall take the constitutional oath of office, which shall be filed in the office of the probate judge. Vacancies on the board shall be filled for the unexpired term by the Governor in the same manner as original appointments. Nominations to fill a vacancy must be submitted to the Governor within thirty days after the vacancy occurs, and the Governor must make the appointment forthwith. The members of the board shall elect a chairman and secretary from among their number. Any member of the board who becomes a candidate for, or is appointed or elected to another public office vacates his office as a member of the board, and the mayor or other chief executive officer of the City of Sumiton shall forthwith notify the Governor, who shall fill the vacancy as provided in this section.

**Section 6.** The members of the board shall each be entitled to \$25 pay for each regular meeting of the board he attends, but he shall not be entitled to any other compensation or allowance. The board shall have power to appoint clerical assistants and engage legal counsel of its own choice, who shall be paid by the city. The pay of members of the board for attending board meetings shall also be paid by the city.

**Section 7.** The board shall fix the times for its regular meetings; and it may hold special, adjourned or call meetings at any time. A majority of the members of the board shall constitute a quorum for the transaction of business. All meetings of the board shall be held in the city hall.

**Section 8.** The board shall keep minutes of its meetings and a record of all business transacted by it. Its records, except those rules of the board require to be held confidential for reasons of public policy, shall be open for inspection by any resident of the city at all reasonable times.

**Section 9.** The board shall have power to make rules and regulations governing examinations, eligible registers, appointments, transfers, salaries, promotions, demotions, annual and sick leave, and such other matters as may be necessary to accomplish the purposes of this act. A rule or regulation may be made effective only after a public hearing is held on the proposal thereof and after a certified copy thereof has been filed with the city clerk. All employees shall be appointed upon a non-partisan merit basis. There shall not be appointed, and the board shall not

examine, any person who is not a citizen of the United States. The board shall: (1) classify the different types of services to be performed in the service of the city; (2) prescribe qualifications, including those of education, training, and experience, for the appointees and incumbents of each class; (3) with the approval of the appointing authority, fix a maximum and minimum salary for each class; and (4) allocate each position in the service to its proper class. It shall provide for the periodic rating of employees according to their merit to determine whether they are maintaining standards of service. The board shall establish rules and regulations governing dismissals, suspensions, layoffs, terminations, and leaves of absence, and the severance of an employee's relationship with the city shall be in accordance with such regulations.

**Section 10.** The salary to be paid each subordinate employee shall be determined by his appointing authority; and the salary to be paid each department head employee shall be determined by the city governing body; but in every case the salary paid shall be within the pay plan and pay rules and regulations established by the board and shall be no more than the board approves. It shall be unlawful for any official or employee to draw or issue any warrant on the city treasury for the payment of salary to any employee covered by the provisions of this act unless the warrant is in an amount authorized by the board to be paid such employee. A sum paid as salary contrary to the provisions of this section may be recovered in an action brought by any resident of the city against the official or employee who draws or issues the warrant, or against the sureties on his bond.

**Section 11.** The board shall make and keep a register of all persons eligible and available for appointment to each class of position in the service of the city, ranked according to ability; it is provided, however, that no examination shall be given and no register kept for positions to be filled by persons designated by the board as common laborers. Layoffs available for re-employment shall be placed at the head of the proper present and subsequent eligible registers in the inverse order of their terminations. Employees who voluntarily terminate their services may be granted re-employment status upon proper eligible registers under such circumstances and in such manner as may be provided for in the board's rules and regulations, subject, however, to stipulations of this section concerning layoffs. Persons desiring appointment may file applications with the board, and the board shall, from time to time, conduct examinations to test the ability of such applicants. All qualified applicants shall be examined, and examinations shall be public, competitive, subject to limitations specified by the board,

as to age, residence, health, height, weight, habits, moral character, and other factors pertinent to ability to discharge the duties of the position, and open to all citizens of the United States. Examinations shall be practical in character and shall relate to those matters which test the ability of the person examined to discharge intelligently the duties of the position for which he applies. In no case shall an appointment be made from an eligible register which is more than two years old, and no eligible register shall be the result of more than one examination.

**Section 12.** Whenever a vacancy exists in any position in the service of the city it shall be filled by appointment of one of the three persons who rank highest on the appropriate eligible register of the board or by transfer within the service of the city from another position of the same class. However, the ranking layoff of the same class shall be appointed in every instance. Whenever it is impossible for the board to certify eligible persons to a vacancy, the board may authorize the appointing authority to fill the vacancy temporarily pending the establishment of an eligible register. No such authorization may be given for longer than one hundred and twenty days, and no such employee shall have status under this act. All appointments, other than temporary appointments, shall be probationary for six months from the date of appointment. A probationary subordinate employee may be discharged by his appointing authority for unsatisfactory service at any time before the expiration of that period if the action is approved by the board; a probationary department head employee may be discharged or demoted similarly by his appointing authority upon approval by the board. After the expiration of the probationary period an appointment shall become permanent.

**Section 13.** An appointing authority shall have authority to suspend an employee for any personal misconduct, or fact, affecting or concerning his fitness or ability to perform his duties in the public interest. In the event an employee is suspended for more than thirty days, he shall be entitled to a public hearing by the board upon written demand filed within five days from the date of the order of suspension. If, after hearing, the board determines that the action of the appointing authority was not with cause, the suspension shall be revoked.

**Section 14.** (a) The governing body of the city, any member of the governing body, or the head of any department or office can remove, discharge, or demote any employee, officer or official of the city who is subject to the provisions of this act and who is directly under such governing body, member thereof, or department head, provided that within five days a report in writing of such action is



made to the board, giving the reason for such removal, discharge, or demotion. The employee shall have ten days from the time of notification of his discharge, removal, or demotion in which to appeal to the board. The board shall thereupon order the charges or complaint to be filed forthwith in writing and shall hold a hearing de novo on such charges. No permanent employee, officer, or official of the city whose employment comes within the jurisdiction of this act, and whose probationary period has been served, shall be removed, discharged, or demoted except for some personal misconduct, or fact, rendering his further tenure harmful to the public interest, or for some cause affecting or concerning his fitness or ability; and if such removal, discharge or demotion is appealed to the board, then the same will become final only after a hearing upon written charges or complaint has been had and after an opportunity has been given him to face his accusers and be heard in his own defense. Pending a hearing on said appeal, the affected employee may be suspended; and after such hearing the board may order said employee reinstated, demoted, removed, discharged, or suspended, or take such other disciplinary action as in their judgment is warranted by the evidence and under the law. Charges may be filed by any resident citizen of the city as follows: the charges must be in writing, must set forth succinctly the matters complained of, and must be sworn to before any member of the board or before any person authorized to administer oaths. Upon the receipt of charges, the board, after due consideration, shall determine whether in its opinion it considers that the good of the service will be served by a trial thereon; and, if not, such charges may be dismissed by the board. If in the judgment of the board such charges are of a minor nature, such charges may be referred by the board to the proper department head who shall make an investigation of the charges and make his recommendation to the board within such time as the board may prescribe, as to what disciplinary action, if any, should be taken. After such recommendation is made by the department head and after due notice is given to the affected employee of the receipt of such recommendation and the contents thereof, the board may, in its discretion, adopt and order executed the action recommended by the department head or any part thereof. However, if the complainant or the affected employee, or both of them, objects to the recommendation of the department head, the board shall hold a public hearing de novo on the charges, and take such disciplinary action as in their judgment is warranted by the evidence and under the law. All hearings before the board shall be open to the public. All testimony given in all hearings before the board shall be taken down in shorthand by a stenographer. In all cases, the decision of the board shall be reduced to writing and entered in the record of the case. In all proceedings before the

board, the city attorney may appear and prosecute all charges instituted by the city governing body or any member thereof or by any department head, when requested or directed to do so by such city governing body. It shall not be the duty of the city attorney to prosecute any charges brought by a private citizen. In all proceedings before the board, the city attorney may appear and represent the interest of the city; and he shall also give such legal advice and legal assistance to the board as may be requested by it.

The board and its specially authorized representatives shall have the power to administer oaths, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of papers necessary as evidence in connection with any hearing, investigation, or proceeding within the purview of this act. The chief of police or some other police officer of the city shall serve all processes of the board, and shall attend upon and preserve order at all public hearings conducted by the board. In case a person refuses to obey such subpoena, the board or its representative may invoke the aid of any circuit court in order that the testimony or evidence be produced. Upon proper showing, such court shall issue a subpoena or order requiring the person to appear before the board or its representative and produce all evidence and give all testimony relating to the matter in issue. A person who fails to obey such subpoena order may be punished by the court as for contempt. The fees of witnesses for attendance and travel shall be the same as fees for witnesses in the circuit courts of this state, which fees shall be paid from the treasury of the city.

(b) Any person aggrieved by a decision of the board may appeal such decision to the circuit court of Walker County in equity within thirty days from the rendition of such decision by the board. Review by the court shall be without a jury and be confined to the record, and to a determination of the questions of law presented; the board's findings of fact shall be final and conclusive.

**Section 15.** No employee shall make, solicit or receive any assessment, donation, subscription or contribution for any political purpose whatsoever, or be a member of a committee or an officer of a political party, or take any part in its management, or affairs except to exercise his right as a citizen to express his opinion and cast his vote; no employee shall assist any candidate for nomination or election to public office, or make any public statement in support of or against any such candidate, or participate in any manner whatever in the campaign of any candidate in any general or primary election; and no employee shall receive any appointment or advancement as a reward for his support of a candidate for office or a political party; nor shall he be dismissed, suspended or reduced in

rank or pay as punishment for his failure to support any candidate for political office.

**Section 16.** The expenses of the board arising under the provisions hereof shall be paid from funds of the city. The city governing body shall provide the board an office in the city hall, which shall be suitably equipped and furnished for the needs of the board, and telephone service, postage, office supplies, and stationery; also, secretarial and clerical help as deemed necessary by the board.

**Section 17.** Any person in the service of the city by appointment under civil service rules or regulations who wilfully violates any provisions of this act, or any rule or regulation issued in pursuance thereof, shall be dismissed from service under the system and shall not be reappointed for two years.

**Section 18.** Any person who violates any of the provisions of this act shall be guilty of a misdemeanor.

**Section 19.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 20.** All laws or parts of laws which conflict with this act are repealed.

**Section 21.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-679

H. 1123—Daniels

### AN ACT

Relating to Geneva County; to provide further for the salary and expense allowance of the superintendent of education.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Beginning with the next term of office the superintendent of education in Geneva County shall receive a total salary in the amount of \$27,500 per annum, an expense allowance of \$2,500 per annum, and shall be paid out-of-county travel expenses as approved by the county board of education.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-680

H. 1124—Harper (O), Turnham

AN ACT

To authorize and direct the Tallapoosa County Commission to appropriate the accumulation of the beer tax levied by Act No. 147, H. 572 of the 1969 Regular Session (Acts of 1969, p. 420) and distribute it within the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Tallapoosa County Commission is hereby authorized and directed to appropriate the amount of beer tax levied by Act No. 147, H. 572 of the 1969 Regular Session (Acts of 1969, p. 420) which has accumulated and is in the county treasury of the date of the enactment of this Act as follows:

Tallapoosa County Commission:	16.48%
Board of Education:	50.00%
City of Alexander City:	16.80%
Town of Camp Hill:	3.72%
Town of Carrville:	2.59%
City of Dadeville:	5.10%
Town of Daviston:	1.98%
City of Tallassee:	.57%
Town of Goldville:	2.10%
Town of New Site:	.57%
Town of Waverly:	.09%

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 681

H. 1125—Harper (O), Turnham

## AN ACT

Relating to Tallapoosa County; to amend Section 2 of Act No. 32, S. 62, Regular Session 1967 (Acts 1967, p. 363), relating to compensation for members of the board of registrars, so as to regulate further said supplement; and to provide for retroactive effect.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act No. 32, S. 62, Regular Session 1967 (Acts 1967, p. 363), is hereby amended to read as follows:

"Section 2. Each member of the board of registrars of Tallapoosa County shall receive ten dollars (\$10) per day to be paid by the county on the order of the probate judge for each day's attendance of the registrar upon the sessions of the board. The per diem provided herein shall be payable from the general fund of Tallapoosa County and shall be in addition to the compensation prescribed for registrars by the general law."

**Section 2.** The operation of this amendatory act shall be retroactive to January 1, 1978, and all actions taken and payments made pursuant thereto on and after that date are ratified and confirmed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-682

H. 1126—Harper (O), Turnham

## AN ACT

To provide for a special recording fee of \$1.00, in addition to all existing recording fees and charges, for each such document hereafter filed for record in Tallapoosa County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** On and after the date this act becomes applicable to Tallapoosa County, a special recording fee of \$1.00 shall be paid to the county, and collected by its Judge of Probate, with respect to each real property instrument and each personal property instrument that may be filed for record in the office of said Judge of Probate and for the recording of other instruments and documents

in the probate office in the discretion of the governing body of the county, and, on and after such date, no such instrument shall be received for record in the office of said Judge of Probate unless the said special recording fee of \$1.00 is paid thereon. Said special recording fee shall be in addition to all other fees, taxes and other charges required by law to be paid upon the filing for record of any real property instrument or personal property instrument, and for the recording of other instruments and documents in the probate office in the discretion of the governing body of the county. All special recording fees so collected shall be deposited into the county general fund of the county. All special recording fees so collected shall be deposited into the county general fund.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-683

H. 1127—Johnson (R.G.), Shoemaker, Dial,  
Moore

### AN ACT

Relating to Talladega County; to provide further for the compensation of election officers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Election officers in Talladega County shall receive from the county such additional compensation as necessary to make their total compensation, including that paid by the state, as follows:

Inspector	\$45.00 per election
Clerk	\$35.00 per election
Chief Inspector	\$60.00 per election

Provided, however, that any chief inspector who is responsible for five or more boxes shall be allowed to work the day before and the day of the election and be paid for both days.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-684

H. 1128—Johnson (R.G.)

AN ACT

Relating to Coosa County; providing for an additional allowance for election officials who work at polling places.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Coosa County, election officials who work at polling places are hereby entitled to an additional per diem allowance in such an amount as will, together with any amount paid by the state make the total paid to such officials thirty-five dollars (\$35.00) for each day they work at the polls. If the amount paid to such officials as compensation or expense allowance by the state increases in the future, then the amount paid by the county under this Act shall automatically decrease in a like amount. In addition, said election officials shall be entitled to a mileage allowance at the same rate as the mileage allowance allowed state employees. The expense allowances provided for in this Act shall be paid from the general fund of the county.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-685

H. 1129—Johnson (R.G.)

AN ACT

Relating to Coosa County; providing for the creation of a county license inspector; providing for delinquency and citation fees, commissions and penalties allowable to such inspector; and providing that all license inspector's fees,

commissions and penalties be paid into the county general fund for the use of the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Coosa County, there is hereby created and established the office of county license inspector. With the approval of the county commission, the chairman of the county commission shall appoint said license inspector, who shall serve at the pleasure of such appointing authority.

**Section 2.** The salary of the license inspector shall be in such sum as shall be approved by the county commission and shall be payable in equal monthly installments out of the undivided proceeds beer tax fund.

**Section 3.** The license inspector shall upon entering upon the duties of his office, take the oath of office prescribed in the Constitution, and shall enter into bond, which bond shall be conditioned as other official bonds are conditioned and be in such penal sum and form as the county commission may prescribe. Said bond shall be approved by and filed with the probate judge of the county and may be made by any surety company or companies authorized and qualified to do business in the State of Alabama. All premiums on said bond shall be payable out of the general fund of the county.

**Section 4.** The county commission shall furnish and equip suitable office space for the license inspector and shall furnish and supply all stationery, equipment and supplies necessary for the conduct of such office, except such stationery and supplies as the law requires the State Department of Revenue or the State Department of Finance to furnish to license inspectors.

**Section 5.** All duties and authority imposed on or vested in license inspectors by section 40-12-10, Code of Alabama 1975, or by any other statute, are hereby imposed upon and vested in the office of the county license inspector created by this act, and such license inspector shall perform such further duties as may be prescribed by the county commission.

**Section 6.** Fees, commissions and penalties due to license delinquencies shall be as provided by section 40-12-10, Code of Alabama 1975, as amended, or by other statute; provided, however, that in addition to all other penalties or fees for delinquency in payment of any license, there shall be a delinquency fee in the sum of five dollars.

**Section 7.** All citations to delinquents shall be served, by mail or otherwise, by any lawful officer, or by the county license



inspector.

**Section 8.** No fees, commissions, or penalties shall be paid to any license inspector appointed under the provisions of Section 40-12-10, Code of Alabama, 1975. All fees, commissions and penalties allowable to the county license inspector under any provision of law, or to any license inspector appointed under the provisions of Section 40-12-10, Code of Alabama, 1975, shall be paid into the general fund of the county for the use of the county.

**Section 9.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 11.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-686

H. 1132—Stout, Rains

### AN ACT

Relating to DeKalb County; providing for the construction, maintenance and repair of public roads, highways, bridges and ferries under the county unit system; authorizing and requiring the county governing body to employ and regulate the compensation of a county engineer; providing for the manner of selecting said engineer; prescribing his qualifications; and requiring bond; defining his authority, powers and duties and those of the county governing body in relation to the roads, bridges and ferries of DeKalb County; and to prohibit the performance of certain work on private property and provide penalties for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The DeKalb County Commission, or any succeeding county governing body performing the functions of the county governing body in said county, shall employ a county engineer, who shall be a thoroughly qualified and competent civil engineer, possessing all of the qualifications as specified for county engineers under the general laws of the State of Alabama; and he shall devote his entire time and attention to the maintenance and construction of the DeKalb County public roads, highways, bridges and ferries, and shall, during his employment, reside in DeKalb County, Alabama.

**Section 2.** Said county engineer shall be appointed by the county commission from a nomination made by the state highway director. If said nomination is not acceptable to the county commission the state highway director shall be requested to make additional nominations. Should the state highway director refuse, or fail to make nominations, the county commission may fill the position of county engineer with any person who has the qualifications herein set out.

**Section 3.** It shall be the duty of the said county engineer, (1) to employ, supervise and direct all such assistants as are necessary properly to maintain and construct the public roads, highways, bridges, and ferries of DeKalb County, and he shall have authority to prescribe their duties, and to discharge said employees for cause, or when not needed; (2) to perform such engineering and surveying service as may be required, and to prepare and maintain the necessary maps and records; (3) to maintain the necessary accounting records to reflect the cost of the county highway system; (4) to build, or construct new roads, or change old roads, but only when ordered to do so by proper order of the county commission; (5) it shall be his further duty, insofar as is feasible to construct and maintain all county roads on the basis of the county as a unit, without regard to any district or beat lines.

**Section 4.** The said county engineer is hereby designated as the person authorized to make written requisition upon the duly designated purchasing agency, for all articles, materials, supplies, and equipment necessary for the maintenance and construction of roads, bridges and ferries in DeKalb County.

**Section 5.** It shall be the duty of the county commission to fix, from time to time, in accordance with prevailing economic conditions, the various scales of wages or salaries to be paid for labor necessary in the maintenance and construction of said roads, bridges, and ferries, and said wage or salary scale shall not be exceeded by said engineer in the employment of labor and assistants.

**Section 6.** The county commission shall fix the amount of the salary of the said county engineer, payable in equal monthly installments from the road and highway funds of DeKalb County.

**Section 7.** Before entering upon his duties, the said county engineer shall make and enter into a surety bond in the amount of five thousand dollars (\$5,000.00) payable to DeKalb County, conditioned for the faithful discharge and performance of his duties as such engineer, and for the faithful accounting of all monies or property of said county, which may come into his possession or

custody. Said bond shall be executed by a surety company authorized and qualified to do business in Alabama, and be approved by the county commission. The premiums thereon shall be paid by the county.

**Section 8.** The county engineer shall report on a day to day basis to the chairman of the county commission and shall report regularly to the county commission as a whole.

**Section 9.** The county commission shall furnish the county engineer with an office at the courthouse, or elsewhere, at the county seat, and all necessary office supplies, and shall furnish him with necessary transportation in connection with his duties under this act.

**Section 10.** The county engineer shall be the custodian of all road tools, machinery, supplies and equipment of DeKalb County, and he shall be accountable for the same, at all times. The county commission shall furnish the necessary storage facilities in which to keep said tools, machinery, supplies and equipment, and the county engineer shall keep on files in his office, at all times, an up-to-date inventory, containing a list of all said tools, machinery, equipment and supplies belonging to DeKalb County.

**Section 11.** The authority of said county engineer shall be limited to the expenditure of such funds for the purpose of construction, maintenance or repairs of public roads, bridges, and ferries of DeKalb County as may be set aside and appropriated by the county commission, as hereinafter provided; it shall be the duty of said county commission at some meeting in September of each calendar year or not later than the first meeting in October following by order or resolution spread upon the minutes; to fix and determine the amount of funds which will be available for the purpose of building, maintaining and constructing public roads, bridges and ferries of DeKalb County for the current fiscal year, beginning on October 1st, which said amount, other than the salary of said county engineer and his necessary expenses, shall not be exceeded by him in building, maintaining and constructing public roads, bridges and ferries in DeKalb County during said period; provided however, that said board is authorized, from time to time within any such period, to increase the amount so allowed to be expended by said county engineer during said period, when such authorization will not conflict with provisions of the general law under the budget act, Title 11, Chapter 8, of the Code of Alabama 1975. Provided further, that if such funds are presently available, and have not heretofore been set aside by the present DeKalb County commission, immediately upon the passage and approval of this act, it shall be the duty of the county commission herein created

to set aside a sufficient portion of said funds for the maintenance of said roads, bridges, and ferries until the meeting in September or October, 1980 as herein above provided for.

**Section 12.** The county engineer shall make written requisition to the chairman of the county commission for all materials, machinery, equipment, and necessary supplies needed for the construction, maintenance, or repair of the public roads, bridges and ferries of DeKalb County. Said requisitions shall be filed and presented by the chairman of the county commission at its next meeting, for the approval of the board. Provided, however, that the chairman shall have full power and authority to make said purchases without first obtaining the approval of the whole board if the delay caused by the herein above procedure, might, in his judgment, cause an unnecessary and harmful interruption in the operation of the county road system.

**Section 13.** It shall be the further duty of the county engineer to inspect all materials, machinery, equipment, and supplies, purchased by DeKalb County for use on public roads, bridges, and ferries, when the same is delivered, and the same shall not be accepted and paid for without its first having been approved by him.

**Section 14.** In the event an emergency should arise, in which it would be impossible for the county commission to employ an engineer, as hereinabove provided for, then, in that event the county commission shall employ a competent road supervisor who need not be an engineer, but, when so employed, he shall have all the duties and authority of said engineer, and be subject to the provisions of this act; but an emergency shall not exist so long as the state highway director can nominate an engineer who will accept employment by said board under the terms of this act, it being the intention of this act to provide that, when county roads are to be maintained or constructed in said county, the supervision thereof shall be either under a county engineer, as hereinabove provided for, or, by a road supervisor, who is not a member of the county commission.

**Section 15.** The county commission is prohibited from authorizing or performing any work on private property with the exception of work performed on church, school, or cemetery property. Any violation of the provisions of this act shall be a misdemeanor punishable by a fine of not more than \$500 and imprisonment in the county jail for not more than 30 days.

**Section 16.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such

declaration shall not affect the part which remains.

**Section 17.** All laws or parts of laws which conflict with this act are hereby repealed.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-687

H. 1133—Rains, Stout

AN ACT

To provide an expense allowance for the circuit court register in DeKalb County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The circuit court register of DeKalb County shall be paid an expense allowance of two thousand and no/100 dollars (\$2,000.00) dollars per annum which shall be in addition to any and all other expenses, allowances, salary and other compensation now provided by law. Such allowance shall be paid in equal monthly installments out of the county general fund.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-688

H. 1137—Hammett

AN ACT

Relating to Covington County; to provide for a clerk to the tax assessor and a clerk to the tax collector; to provide for fixing the salaries of such clerks as the amount specified as the federal minimum wage; and provide for the method of payment of same.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The tax assessor and the tax collector of Covington County are hereby authorized to hire a clerk each, with the salaries of said clerks to be fixed by the Covington County Commission from time to time and paid from the general fund of the county; provided, that said salaries shall be the amount specified as the federal

minimum wage. The County Commission shall determine the beginning and ending dates of employment of said clerks.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-689

H. 1138—Hammett

### AN ACT

Relating to Covington County; to provide that in lieu of the former arrangement of paying both monthly expense allowances, mileage and salary for the Covington County governing body, the monthly remuneration of each member of said county governing body shall instead be a salary of \$900.00 per month, payable out of the county treasury; to provide that Act No. 900, H. 1674 of the 1971 Regular Session (Acts 1971, p. 1663), providing for reimbursement of the members of the county governing body for expenses incurred outside of the county and in attending meetings in the performance of their duties shall not be repealed hereby; to repeal conflicting laws; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In lieu of the former arrangement of paying both monthly expense allowances, mileage and salary for the members of the Covington County governing body, the monthly remuneration of each member of said county governing body shall instead be a salary of \$900.00 per month, payable out of the county treasury.

**Section 2.** All laws heretofore providing for monthly expense allowances, mileage and salary for the Covington County governing body are hereby expressly repealed. Provided, however, that Act No. 900, H. 1674 of the 1971 Regular Session (Acts 1971, p. 1663), as amended by Act No. 334, S. 141 of the 1975 Regular Session (Acts 1975, p. 870), providing for reimbursement of the members of the county governing body for expenses incurred outside of the county and in attending meetings in the performance of their duties shall not be repealed hereby.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such

declaration shall not affect the part which remains.

**Section 4.** The provisions of this Act shall be effective as to all members of the Covington County governing body immediately after the expiration of the term or terms of office of the member or members of said governing body whose term or terms first expire.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-690

H. 1140—Laird

**AN ACT**

Relating to Randolph County; fixing the fee for the issuance of pistol permits and providing for the disposition of such fees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Randolph County, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person shall be eight dollars (\$8.00) which shall be collected by the sheriff. Three dollars of each fee collected under this act shall be paid into the county treasury and the remaining five dollars (\$5.00) of each fee shall be deposited by the sheriff into any bank in the county, into a fund known as the sheriff's pistol permit fund, and shall be drawn upon by the sheriff or his appointed agent and shall be used exclusively for law enforcement purposes. The sheriff shall have discretion in using this fund in the discharge of his office as he sees fit, provided, however, the sheriff must make annual accountings to the Randolph County Commission.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-691

H. 811—Turnham, McCorquodale

**AN ACT**

To facilitate vehicular traffic in the state by providing for the construction, operation and maintenance of toll road, bridge and tunnel projects, creating the Alabama Toll Road, Bridge and Tunnel Authority and defining its powers and duties; authorizing the issuance of revenue bonds payable from tolls and other revenues to pay the cost of such projects; providing that no debt of the state shall be incurred in the exercise of any of the powers granted by this act; providing for the collection of tolls and other revenues for the payment of such bonds and for the cost of maintenance, operation and repair of such projects; making such bonds exempt from taxation and constituting them legal investments in certain instances; prescribing conditions upon which such projects shall become free; providing for condemnation; granting certain powers and authority to municipal subdivisions and agencies of the state to cooperate with the Authority; authorizing the issuance of revenue refunding bonds; making an appropriation to pay initial expenses and providing for the repayment thereof; and prescribing penalties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The purpose of this act is to facilitate vehicular traffic and safety in the state by providing for the construction of modern toll roads, bridges and tunnels in strategic and essential locations, without taxes and without a pledge of the faith and credit of the state.

**Section 2.** As used in this act, the following words and terms shall have the meanings herein ascribed to them unless the context indicates another or different meaning or intent:

(1) "Authority." The Alabama Toll Road, Bridge and Tunnel Authority created by this act, or any board, body or commission succeeding to the principal functions thereof or to which the powers given by this act to the Authority, shall be given by law.

(2) "Project," "toll road, bridge and tunnel project" or "toll road, bridge or tunnel project." Any type of toll road, bridge, causeway, or tunnel established and constructed or to be constructed by the Authority under the provisions of this act, and shall include, but shall not be limited to all toll roads, bridges, causeways, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, access roads, toll houses, service areas, service stations, service facilities, communication facilities, and administration, storage and other buildings which the Authority may deem necessary for the operation of such project, together with all property, rights, easements and interests which may be acquired by the Authority for the construction, operation and maintenance of such project.

(3) "Cost." As applied to a toll road, bridge or tunnel project, the cost shall embrace the cost of construction, including bridges over or under existing highways and railroads; the cost of the acquisition of all land, rights-of-way, property, rights, easements



and interests acquired by the Authority for such construction; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land for easements therefor; the cost of all machinery and equipment; the cost of financing charges, including interest prior to and during construction and for one year after completion of construction; the cost of traffic estimates and of engineering and legal expenses; plans, specifications, surveys, estimates of cost and of revenues; the cost of other expenses necessary or incident to determining the feasibility or practicability of constructing any such project; the cost of administrative expense and such other expense as may be necessary or incident to the construction of the project; the cost of the financing of such construction and the cost of placing of the project in operation. Any obligation or expense which may be incurred by the state highway department for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the planning or construction of a project shall be regarded as a part of the cost of such project and shall be reimbursed to the state highway department by the Authority.

(4) "Bonds" or "toll road, bridge or tunnel revenue bonds." Bonds of the Authority authorized under the provisions of this act.

(5) "Public highways." All public highways, roads and streets in the state, whether maintained by the state or by any county or municipality or other political subdivision.

(6) "Owner." All individuals, copartnerships, associations, private or municipal corporations, and all political subdivisions of the state having any title or interest in any property, rights, easements and interests authorized to be acquired by this act.

**Section 3.** (a) There is hereby established a body corporate and politic with corporate succession, to be known as the "Alabama Toll Road, Bridge and Tunnel Authority." The Authority is hereby constituted an instrumentality exercising public and essential governmental functions and the exercise by the Authority of the powers conferred by this act shall be deemed and held to be an essential government function of the state.

(b) The Authority shall consist of the governor, the lieutenant governor, the speaker of the house of representatives, the highway director, one member of the senate to be appointed by the lieutenant governor, one member of the house of representatives to be

appointed by the speaker of the house, and one person from the state at large to be appointed by the governor.

(c) The governor shall be chairman of the Authority. The Authority shall elect a secretary and a treasurer who need not be members and may be one and the same person. Four members of the Authority shall constitute a quorum and the concurrence of four members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. Should any of the said officials of the state die or should his term of office, as such official, expire, or should he resign therefrom, his successor in office shall take his place as a member or officer of the Authority. Any vacancy in the appointed membership of the Authority shall be filled in the same manner as the original appointment was made.

(d) If the secretary and treasurer are not members of the Authority, before the issuance of any toll road, bridge or tunnel revenue bonds under the provisions of this act, the secretary shall execute a surety bond in the penal sum of \$25,000.00 and the treasurer shall execute a surety bond in the penal sum of \$50,000.00, which shall be sufficient if he be secretary also. Each such surety bond shall be conditioned upon the faithful performance of the duties of the office of secretary or treasurer, as the case may be, to be executed by a surety company authorized to transact business in the state of Alabama as surety, and to be approved by the Governor and filed in the office of the secretary of state. The cost of such bonds shall be borne by the Authority.

(e) The members of the Authority shall serve without compensation. The appointed members shall receive reimbursement for their expenses when actively engaged on the Authority's business, such expenses to be paid in accordance with article 2 of chapter 7 of Title 36 of the Code of Alabama 1975.

**Section 4.** The Authority shall have the following powers:

(a) To adopt by-laws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

(c) To maintain a principal office and branch offices at such place or places within the state as it may designate;

(d) To sue and be sued in its own name, including suits in tort;

(e) To acquire and construct toll road, bridge or tunnel projects at such locations as the Authority may determine to be

desirable, practicable and economically feasible and to maintain, repair and operate such projects;

(f) To issue toll road, bridge or tunnel revenue bonds of the Authority for any of its corporate purposes, payable solely from its tolls, other revenues, and proceeds of such bonds, and to refund its bonds, all as provided in this act. No bonds issued under the provisions of this act shall constitute a debt or liability of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, and neither the state nor any political subdivision thereof shall ever pay or agree to pay any portion of the same, but such bonds shall be payable solely from the funds pledged or available for their payment as authorized herein. All such toll road, bridge or tunnel revenue bonds shall contain on the face thereof a statement to the effect that the Authority is obligated to pay the same or the interest thereon only from its tolls or other revenues and that neither the state nor any political subdivision thereof is obligated to pay the same or the interest thereon and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of the principal thereof or the interest thereon;

(g) To fix and revise from time to time, charge and collect tolls for transit over or through toll road, bridge and tunnel projects constructed by it;

(h) To establish rules and regulations for the use of any project;

(i) To acquire, hold and dispose of real and personal property;

(j) To acquire in the name of the Authority, by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by condemnation in accordance with the provisions of Title 18, Code of Alabama 1975, and other provisions of law, insofar as the same may be applicable, any land and other property or any easement or interest therein, which it may determine is reasonably necessary for any toll road, bridge or tunnel project or for its protection and preservation, or for the construction, relocation or reconstruction of any access highway, street or road; and to acquire by purchase or by condemnation, land necessary for drainage ditches, clay, sand and gravel pits, and lime and stone quarries, together with any other material of every character that may be necessary in the construction and maintenance of toll road, bridge or tunnel projects and access highways and roads;

(k) To designate points of ingress to and egress from each toll road, bridge or tunnel project and to prohibit entrance to and exit from such project at any point or points not so designated;

(l) To make and enter into contracts and agreements necessary for or incidental to the performance of its duties and the execution of its powers under this act, including contracts and agreements for professional services deemed necessary for such purposes by the Authority;

(m) To appoint managers, superintendents, tolltakers, and such other employees and agents as may be necessary, in its judgment, to the efficient accomplishment of the purposes of this act;

(n) To receive and accept from any federal agency, subject to the approval of the Governor, grants for or in aid of the construction of any project and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(o) To provide coverage for its employees under the provisions of the Workmen's Compensation Act and the Federal Social Security Act; and

(p) To do all acts and things necessary or convenient to carry out the powers granted in this act.

**Section 5.** Before construction is started on any project, the Authority shall advertise for sealed bids once each week for three consecutive weeks in a newspaper of general circulation in the county in which the project or undertaking, or some part thereof, is to be located; the Authority may also advertise in such other publications as it may deem advisable. Such notices shall state that plans and specifications for the project are on file in the office of the Authority and the time and place in which bids will be received and opened. All bids shall be opened publicly at the advertised time and place.

The contract shall be awarded to the lowest responsible bidder complying with conditions of the invitation for bids, unless the Authority finds that his bid is unreasonable or that it is not to the interest of the Authority to accept it. The bidder to whom the award is made shall be notified by telegram or letter at the earliest possible date. Should the successful bidder fail or refuse to sign the contract or make bond, the Authority may award the contract to the second lowest responsible bidder. Should the second lowest bidder fail or refuse to sign the contract or make bond, the Authority may

award the contract to the third lowest responsible bidder.

Should no bids be received at the time stated in the advertisement for bids, the Authority may advertise for and seek other competitive bids, or the Authority may direct that the work shall be done by force account under its direction and control. If the Authority finds that all bids received are unreasonable and that it is not to the interest of the Authority to accept any of the bids, the Authority may direct that the work shall be done by force account under its direction and control. On any construction project which the Authority had determined to do by force account, the Authority shall file plans and specifications and an itemized estimate of cost with the department of examiners of public accounts and upon completion of the project by the Authority, the final total costs, together with an itemized list of cost of any and all changes made in the original plans and specifications shall be submitted to the department of examiners of public accounts for its permanent record. Upon the approval of the Authority, its duly authorized officer or officers may, when proceeding upon the basis of force account, let any subdivision or unit of work by contract on receiving sealed bids in accordance with this section. This section shall not apply to routine maintenance and repair jobs done by maintenance men who are regular employees of the Authority.

**Section 6.** (a) The Authority shall have power to construct grade separations at intersections of any toll road, bridge or tunnel project with public highways and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of the grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways shall be ascertained and paid by the Authority as a part of the cost of such bridge or tunnel project.

(b) If the Authority finds it necessary to change the location of any portion of any public highway, it shall cause a highway of substantially the same type as the original highway to be reconstructed at such location as the Authority shall deem most favorable. The cost of reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the Authority as a part of the cost of such bridge or tunnel project.

(c) Any change in line or grade, and any relocation of a public highway, shall be made so as best to serve the interests of the public and at the same time carry out the purposes of this act and any change in line or grade and any relocation shall be approved by the governing body or public agency having the responsibility of maintaining such public highway. In the event such body or agency

fails or refuses to approve the change or relocation the matter may be submitted by the Authority to the circuit court of the county in which such body or agency has its principal office and the court shall determine what change in line or grade or relocation shall be made. Approval by such body or agency or by the court shall be conclusive as to the public interest.

(d) In addition to the foregoing powers the Authority and its authorized agents and employees may enter upon lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of this act, and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending. The Authority shall make reimbursement for any actual damages resulting to such lands, waters, and premises as a result of such activities.

(e) The Authority shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (herein called "public utility facilities") of any public utility in, on, along, over, or under any toll road, bridge or tunnel project. Whenever the Authority shall determine that it is necessary that any public utility facilities which now are, or hereafter may be, located in, on, along, over, or under any toll road, bridge or tunnel project shall be relocated in such toll road, bridge or tunnel project, or should be removed from such toll road, bridge or tunnel project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the Authority. The cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, or new locations, and the cost of any lands or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal shall be ascertained and paid by the Authority as a part of the cost of such toll road, bridge or tunnel project. In case of any such relocation or removal of facilities, the public utility owning or operating the facilities, or its successors or assigns, may maintain and operate the facilities with the necessary appurtenances in the new location or new locations for as long a period and upon the same terms and conditions as it had the right to maintain and operate such facilities in their former location or locations.

**Section 7.** The Authority is hereby authorized to provide by resolution for the issuance of bonds of the Authority for any of its corporate purposes, including the refunding of its bonds. The

principal of and the interest on any issue of such bonds shall be payable solely from, and be secured by a pledge of, tolls and other revenues of all or any part of the toll road, bridge or tunnel project financed in whole or in part with the proceeds of such issue or with the proceeds of bonds refunded or to be refunded by such issue. The proceeds of any such bonds may be used or pledged for the payment or security of the principal or of the interest on bonds, and for the establishment of any or all reserves for such payment or security, or for other corporate purposes as the Authority may authorize in the resolution authorizing the issuance of bonds or in the trust agreement securing the same. The bonds of each issue shall be dated; shall bear interest not in excess of six percent per annum; shall mature at such time or times, not exceeding 40 years from their date or dates as may be determined by the Authority; and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The amount of premium on any bond shall not cause the yield to be more than six percent per annum from the date of such bonds to the date of their redemption. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds shall be signed by the chairman of the Authority or shall bear his facsimile signature; and the official seal of the Authority or a facsimile thereof shall be impressed, imprinted, engraved or otherwise reproduced thereon. The official seal or a facsimile thereof shall be attested by the secretary of the Authority or shall bear his facsimile signature; and any coupons attached thereto shall bear the facsimile signature of the chairman of the Authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of the act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine; and provision may be made for the registration of any coupon bonds as to principal along and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds in such manner and for such price as it may determine to be for the

best interest of the Authority.

The Authority shall have power from time to time, in anticipation of the issuance of bonds, to issue notes and from time to time to issue renewal notes maturing not later than three years from their respective dates, in an amount not exceeding the amount of bonds issued under the provisions of this act. The authorization and issuance of such notes, the interest thereon, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect thereto, shall be governed by the provisions of this act with respect to the issuance of bonds, insofar as the same may be applicable.

The Authority may, out of any funds available therefor, purchase notes or bonds, which shall thereupon be cancelled, at not more than the redemption price then applicable, or, if not then redeemable, at a premium of not more than one percent of their face amount, plus accrued interest to the date of purchase.

Neither the members of the Authority nor any person executing the notes or bonds shall be personally liable on the notes or bonds, or be accountable by reason of the issuance thereof in accordance with the provisions of this act.

The proceeds of the bonds of each issue shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of the bonds, or in the trust agreement, hereinafter mentioned securing the bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau, or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this act.

**Section 8.** The Authority may provide by resolution for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the



Authority, for the additional purpose of constructing improvements, extensions or enlargements of the toll road, bridge or tunnel project or projects in connection with which the bonds to be refunded shall have been issued. The Authority is further authorized to provide by resolution for the issuance of its bonds for the combined purpose of (a) refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereof and any interest accrued or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of any additional project or projects. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect to the same, shall be governed by the provisions of this act in so far as the same may be applicable.

**Section 9.** In the discretion of the Authority, any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company, or bank having the powers of a trust company, within or without the state. The trust agreement or the resolution providing for the issuance of such bonds subject to the provisions of Section 6 of this act, may pledge or assign tolls or other revenues to which the Authority's right then exists or which may thereafter come into existence, and the moneys derived therefrom, and the proceeds of such bonds; provided, however, that the trust agreement or resolution shall not convey or mortgage any toll road, bridge or tunnel project or any part thereof. Such trust agreement or resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law; including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the toll road, bridge or tunnel project or projects; the rates of tolls and revenues to be charged; the payment, security, or redemption of bonds and the custody, safeguarding, and application of all moneys; and provisions for the employment of consulting engineers in connection with the construction or operation of such bridge or tunnel project or projects. It shall be lawful for any bank or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual

rights of action by bondholders. In addition to the foregoing, any trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any trust agreement may be treated as a part of the cost of the operation of the toll road, bridge or tunnel project or projects.

Any pledge of tolls, other revenues or moneys made by the Authority shall be valid and binding from the time the pledge is made. The tolls, other revenues or moneys so pledged and thereafter received by the Authority, except that part of the tolls, other revenues or moneys which are necessary to maintain the project or projects in good operating conditions, or to pay the reasonable operating expenses of the Authority, or any judgment rendered against it, shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether such parties have notice thereof.

Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. If such trust agreement should be offered for record it shall be filed and recorded without the payment of the mortgage tax required by Chapter 22, Title 40, Code of Alabama 1975. The Authority may, in its discretion, enter into any supplement to such trust agreement, which supplement shall be governed, so far as may be, by the same provisions of this act as are applicable to the trust agreement.

**Section 10.** The Authority is hereby authorized to fix, revise, charge, and collect tolls for the use of each toll road, bridge or tunnel project and the different parts or sections thereof, and to contract with, or to lease to or from, any person, partnership, association, or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion of approaches and access highways, streets or roads for placing thereon telephone, telegraph, electric light or power lines or pipe lines for gas and water or for petroleum products or for any other purpose except for tracks for railroad or railway use and to fix the terms, conditions, rents and rates of charges for such use. Tolls shall be so fixed and adjusted as to carry out and perform the terms and provisions of any contract with or for the benefit of bondholders. Tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the state. The use and

disposition of tolls and revenues shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the bond issue.

**Section 11.** All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and the resolution or trust agreement may provide.

**Section 12.** Any holder of bonds issued under the provisions of this act, or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent that the rights herein given may be restricted by such trust agreement, may, by civil action or proceeding protect and enforce any and all rights under the laws of this state, or granted hereunder, or under the trust agreement or the resolution authorizing the issuance of bonds and may enforce and compel the performance of all duties required by this act or by the trust agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of tolls.

**Section 13.** The exercise of the powers granted by this act will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity and for the improvement of their health and living conditions. Since the operation and maintenance of toll road, bridge or tunnel projects by the Authority will constitute the performance of essential functions the Authority shall not be required to pay any taxes or assessments upon any toll road, bridge or tunnel project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom; and any toll road, bridge or tunnel project, any property acquired or used by the Authority under the provisions of this act and the income therefrom and the bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall be exempt from taxation.

**Section 14.** Bonds issued by the Authority under the provisions of this act are hereby made securities in which the state and all political subdivisions of this state, their officers, boards, commissioners, departments, or other agencies; all banks, bankers, savings banks, trust companies, savings and loan associations,

investment companies, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees and other fiduciaries; and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the state may properly and legally invest any funds, including capital belonging to them or within their control. The bonds or other securities or obligations are hereby made securities which properly and legally may be deposited with and received by any state or municipal officer or agency of the state for any purpose for which the deposit of bonds or other obligations of the state is now or hereafter may be authorized by law.

**Section 15.** Each toll road, bridge and tunnel project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Authority.

**Section 16.** (a) The Authority is hereby authorized to promulgate reasonable rules and regulations with respect to the use of any toll road, bridge or tunnel project. Such rules and regulations shall relate to vehicular speeds, loads, weights and sizes, safety devices, rules of the road, and such other matters as may be necessary and proper to regulate traffic in the interest of safety and the maximum convenience of the persons using the project. Such rules and regulations shall apply according to their terms to all sections of any toll road, bridge or tunnel project under the jurisdiction of the Authority, and to its structures and other appurtenances. Insofar as such rules and regulations may be inconsistent with the rules and regulations made by the highway department with respect to such matters or with the laws of the state relating to offenses with respect to highways, the rules and regulations promulgated by the Authority shall be controlling. The Authority may prescribe such reasonable rules and regulations as it may deem advisable for the protection and preservation of and for the maintenance and preservation of good order within the property under its jurisdiction and control and to prevent unnecessary trespassing upon or injury to or upon any part of the right-of-way or other property of any toll road, bridge or tunnel project.

(b) Such rules and regulations shall provide that law enforcement officers shall be afforded ready access, while in the performance of their official duty, to all property under the jurisdiction of the Authority without the payment of tolls. Violation of such rules and regulations shall be a misdemeanor punishable by a fine of not less than \$1.00 nor more than \$500.00, and, at the

discretion of the judge trying the case, also by sentence to hard labor for the county for a term not to exceed six months. Such rules and regulations shall not take effect until duly filed in the office of the secretary of state or as hereafter may be provided by law and published in a newspaper of general circulation in each county in which the toll road, bridge and tunnel project affected is located and in such other manner as the Authority shall prescribe.

(c) Each project may be policed by such force of police as the Authority considers necessary. The police officers shall have power to prefer charges against and make arrests of any person or persons violating any law of the state of Alabama, or any of the by-laws, rules, or regulations of the Authority, as authorized herein on property owned or controlled by the Authority. The jurisdiction of such police officers shall not be restricted to any one county but shall extend to all the counties in the state in which any toll road, bridge or tunnel project is located.

**Section 17.** All counties, cities, towns, and other political subdivisions and all public departments, agencies, and commissions of the state of Alabama, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant, or convey to the Authority at its request, upon such terms and conditions as the proper authorities of such counties, cities, towns, political subdivisions, and departments, agencies, or commissions of the state may deem reasonable and fair, and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, which real property may include public roads and other real property already devoted to public use.

**Section 18.** On or before the tenth legislative day of each regular session of the Legislature, the Authority shall make a report of its activities for the preceding calendar year to the Legislature. Each report shall set forth a complete operating and financial statement covering its operations during the year and shall contain a complete report of the engineers of the Authority as to the physical condition of any project and shall include any recommendations made by such engineers. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operation of the project.

**Section 19.** Any member, agent or employee of the Authority who is interested, gainfully or pecuniarily, either directly or

indirectly, in any contract of the Authority, or in the sale of any property, either real or personal, to or by the Authority shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than one year, or both.

**Section 20.** When all bonds issued under the provisions of this act to finance any toll road, bridge or tunnel project or projects and the interest thereon shall have been paid, or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, such project or projects, if then in good condition and repair, as determined by the state highway department, shall be transferred by the authority to the state of Alabama and shall become a part of the state highway system and shall thereafter be maintained by the state highway department free of tolls.

**Section 21.** The state highway director is hereby authorized, subject to the approval of the Governor, to expend out of any funds available to it such moneys as may be necessary for the study of any proposed toll road, bridge or tunnel project authorized under this act and to use its engineering and other forces, including consulting engineers and traffic engineers, for the purpose of effecting the study. All such expenses incurred by the department prior to the issuance of revenue bonds under the provisions of this act shall be paid by the department and charged to the appropriate project or projects and the department shall keep proper records and accounts showing each amount so charged.

Upon the sale of toll road, bridge or tunnel revenue bonds for a toll road, bridge or tunnel project, the funds so expended by the department in connection with a project shall be reimbursed by the Authority to the department from the proceeds of such bonds and thereafter all expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the authority of this act. Nothing in this act shall be construed so as to authorize the Authority to incur indebtedness or liability on behalf of or payable by the state or by any of its political subdivisions.

**Section 22.** There is hereby appropriated to the Authority from any funds in the treasury of the state of Alabama not otherwise appropriated the sum of \_\_\_\_\_ to be expended for the initial salaries, expense allowances and administrative expenses of the Authority.

Upon the sale of the first toll road, bridge or tunnel bonds the authority shall repay the full amount of this appropriation to the state treasury.

**Section 23.** If any provision of this act, or if the application of the act to any person or circumstances, is held invalid, the validity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application; and to this end the provisions of this act are declared to be severable.

**Section 24.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 25.** This act shall be known, and may be cited, as the "Toll Road, Bridge and Tunnel Authority Act."

**Section 26.** This act shall take effect immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-692

H. 518—Kelley

### AN ACT

To amend Section 1 of Act No. 834, Acts of Alabama 1978 Regular Session, amending Section 39-2-12, Code of Alabama 1975, in order to add thereto definitions of words employed therein, to change the amount of retainage withheld, and to provide further for the methods and manner of investment and the administration of the investment of retainage held in escrow.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 834, Acts of Alabama, 1978 Regular Session, is hereby amended to read as follows:

"Section 1. Section 39-2-12, Code of Alabama 1975, as amended, is hereby further amended to read as follows:

"(a) Definitions. As used in this Section the following words shall have the meanings ascribed to them as follows:

"(1) Contractor. Any natural person, partnership, company, firm, corporation, association, cooperative or other legal entity licensed by the Alabama State Licensing Board for General Contractors.

"(2) Non-resident Contractor. A contractor who is neither (1) organized and existing under the laws of the State of Alabama, nor (2) maintains its principal place of business in the state of Alabama. A non-resident contractor who has maintained a permanent branch office within the state of Alabama for at least

five continuous years shall not thereafter be deemed to be a non-resident contractor so long as such contractor continues to maintain a branch office within Alabama.

“(3) Retainage. That money belonging to the contractor which has been retained by the awarding authority conditioned on final completion and acceptance of all work in connection with a project or projects by the contractor.

“(b) Unless otherwise provided in the specifications, partial payments will be made as the work progresses at the end of each calendar month, or as soon thereafter as practicable, on the estimates made and approved by the awarding authority. In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.

“(c) In making such partial payments, there shall be retained not more than five percent of the estimated amount of work done and the value of materials stored on the site, and after 50 percent completion has been accomplished, no further retainage will be withheld. The retainage above set out shall be held until final completion and acceptance of all work covered by the contract unless the escrow management described in (d) below is utilized. In addition to other requirements, a nonresident contractor shall satisfy the awarding authority that it has paid all taxes due and payable to the State of Alabama or any political subdivision thereof prior to receiving final payment for contract work. When maintenance periods are included in the contract covering highways and bridges or similar structures, such periods shall be considered a component part of the contract. On completion and acceptance of each separate building, public work or other divisions of the contract, on which a price is stated separately in the contract or can be separately ascertained, payment may be made in full, including the retained percentage thereof, less authorized deductions. Nothing in this section shall, however, be interpreted to require the awarding authority to make full payment on an item of work when such item of work is an integral part of a complete improvement.

“(d) In lieu of the retained amounts provided for in (c) above, the awarding authority may provide in the specifications or contracts an alternate procedure providing for the maintenance of an escrow account, pursuant to an escrow agreement, in an amount at least equal to the amount of the retainage authorized by the specifications or contracts. The escrow account or escrow agreement shall be entered into only on the following conditions:

“(1) If the contractor shall have entered into more than one



construction contract allowing for the maintenance of escrow accounts, the contractor may elect to combine the amounts held in lieu of retainage under each contract into one or more escrow accounts or may elect to establish a separate escrow account for each contract.

“(2) Only State or national banks chartered within the State of Alabama or Savings and Loan Associations domiciled in the State of Alabama may serve as an escrow agent.

“(3) The escrow agent must limit the investment of funds held in escrow in lieu of retained amounts provided for in Section (c) of this section to savings accounts, certificates of deposit or similar time deposit investments (which may, at the election of the contractor, be in an amount in excess of the maximum dollar amount of the coverage by the Federal Deposit Insurance Corporation, the Federal Savings & Loan Insurance Corporation, or other similar agency), U.S. Treasury Bonds, U.S. Treasurer Notes, U.S. Treasurer Certificates of Indebtedness, U.S. Treasury Bills, Bonds or Notes of the State of Alabama or Bonds of any political subdivision of the state of Alabama.

“(4) As interest on all investments held in escrow becomes due, it shall be collected by the escrow agent and paid to the contractor.

“(5) The escrow agent shall periodically acknowledge to the awarding authority and contractor the amount and value of the escrow account held by the escrow agent, and any additions to the escrow account by the awarding authority shall be reported immediately to the contractor. Withdrawals from the escrow account shall only be made subject to the written approval of the awarding authority.

“(6) Upon default or overpayment, as determined by the awarding authority, of any contract or contracts subject to this procedure, and upon the written demand of the awarding authority, the escrow agent shall within ten (10) days deliver a certified check to the awarding authority in the amount of the escrow account balance (subject to the redemption value of such investments at the time of disbursement) relating to the contract or contracts in default.

“(7) The escrow account may be terminated upon completion and acceptance of the contract or contracts as provided in Sections (c) and (f) hereof.

“(8) All fees and expenses of the escrow agent shall be paid by the contractor to the escrow agent and if not paid shall constitute a lien on the interest accruing to the escrow account and shall be paid

therefrom.

“(9) The escrow account shall constitute a specific pledge to the awarding authority, and the contractor shall not, except to his surety, otherwise assign, pledge, discount, sell or transfer his interest in said escrow account, the funds in which shall not be subject to levy, garnishment, attachment or any other process whatsoever.

“(10) The form of the escrow agreement and provisions thereof in compliance herewith, as well as such other provisions as the awarding authority shall from time to time prescribe, shall be subject to written approval of the awarding authority. The approval of the escrow agreement by the awarding authority shall authorize the escrow agent to accept appointment in such capacity.

“(11) The awarding authority shall not be liable to the contractor or his surety for the failure of the escrow agent to perform under the escrow agreement, or for the failure of any financial institution to honor investments issued by it which are held in the escrow account.

“(e) All material and work covered by partial payments made shall thereon become the sole property of the awarding authority, but this provision shall not be construed as relieving the contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work or as a waiver of the right of the awarding authority to require the fulfillment of all the terms of the contract.

“(f) Upon completion and acceptance of all work required, the amount due the contractor under the terms of the contract shall be paid upon the presentation of a properly executed and duly certified voucher therefor, after the contractor shall have furnished the awarding authority with a release, if required, of all claims against the awarding authority arising under and by virtue of the contract, other than such claims, if any, as may be specifically excepted by the contractor from the operation of the release in stated amounts to be set forth therein and the presentation of proof of advertisement as provided by law.”

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-693

H. 138—Gafford

AN ACT

Relating to the annual fee and assessment required to be paid by state chartered savings and loan associations, so as to change the assessment from the existing \$.20 per \$1,000.00 of total assets to provide that such assessment fee shall be fixed by the Savings and Loan Commissioner and approved by the State Savings and Loan Board from time to time, and to repeal §5-16-38, Code of Alabama 1975.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 5-16-38, Code of Alabama 1975 is hereby repealed.

**Section 2.** Each savings and loan association chartered by the State of Alabama shall on the call of the Commissioner pay the State Banking Department an assessment fee based on the total resources of the association as may be shown by its last report to the Banking Department. The rate of such assessment shall be in an amount fixed by the Commissioner and approved by the State Savings and Loan Board and the assessment may be made more frequently than annually. All such fees shall be paid into the special fund set up by the State Treasurer pursuant to §5-1-5, Code of Alabama 1975, and used in the supervision and examination of savings and loan associations. No other assessment or license of any kind shall be levied against or collected from any savings and loan association except the ordinary taxes assessed against property in general and except as may be specifically provided for in this act.

**Section 3.** All laws or parts of laws inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-694

H. 14—Minus

AN ACT

To amend Section 40-17-171 of the Code of Alabama 1975, relating to the levy of excise taxes on oils, greases or substitutes, so as to exempt certain sales of lubricating oil destined for out-of-state use from such taxes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-17-171 of the Code of Alabama 1975 is hereby amended to read as follows:

“Section 40-17-171. Every distributor, manufacturer, retail dealer or storer of lubricating oil, as herein defined, shall pay an excise tax of \$.02 per gallon upon the selling, distributing or withdrawing from storage in this state for any use lubricating oil as herein defined; provided, that this excise tax shall neither be levied upon the sale of lubricating oil in interstate commerce nor upon any sale of lubricating oil destined for out-of-state use which is transacted in a manner whereby an out-of-state purchaser takes delivery of such oil at a distributor's plant within this state and transports it out-of-state; and provided further, that where the excise tax of \$.02 per gallon upon the sale of such lubricating oil shall have been paid by a distributor, manufacturer, retail dealer or storer, such payment shall be sufficient, the intention being that the tax shall be paid but one time by any person so liable. The state department of revenue is hereby authorized to issue to the United States certificates of exemption, upon forms prescribed by the department, for use by the United States in purchasing lubricating oil within the state of Alabama and which is paid for by the United States. Any person in reporting and paying said tax to the department may deduct the number of gallons of lubricating oil so sold to the United States, as shown by such certificates of exemption duly executed by the United States and filed with such report; and the department is authorized to adopt rules and regulations with respect to the issuance and use of such certificates.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-695

H. 432—Owens

### AN ACT

To amend Section 40-12-244 Code of Alabama 1975 which exempts certain persons from motor vehicle license taxes and registration fees, so as to include

vehicles owned by the Civil Air Patrol within the exemption.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-12-244 Code of Alabama 1975 is hereby amended to read as follows:

“Section 40-12-244. There shall be exempt from the operation of the privilege or license tax and registration fee now or hereinafter to be levied on automobiles and motor vehicles by the state of Alabama one passenger vehicle owned by:

“(1) Any active member of the Alabama national guard or the Alabama state guard, when organized in lieu of the national guard or for any service-connected disabled veteran. Such exemption for only one such vehicle extends only to distinctive national guard or service-connected disabled veterans’ license tags and shall be claimed upon presentation of proper identification on forms prescribed by the adjutant general. Active members of the national guard may obtain additional distinctive license tags for other passenger vehicles which they own by paying the regular privilege or license tax provided by law. Retired members of the Alabama national guard may obtain one or more distinctive license tags for passenger vehicles which they own upon presentation and proper identification on forms prescribed by the adjutant general and by paying the regular privilege or license tax and registration fee as provided by law.

“(2) Any officer, warrant officer or enlisted person serving as an active member of any United States armed forces reserve organization or any service-connected disabled veterans who were residents of Alabama at the time of entering the service and who are still residents of Alabama at the time the exemption is claimed. Such exemption shall be claimed by presentation of proper identification and proof of residence requirements on forms prescribed by the state department of revenue.

“(3) Any member of a volunteer rescue squad.

“(4) The civil air patrol; including those vehicles owned by the National Headquarters and those owned by the Alabama Wing of the Civil Air Patrol.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-696

H. 199—Sasser, Williams, Smith (C),  
Edwards, Wyatt, Warren,  
Harper (O), Dial, Adams (H)

## AN ACT

Relating to the eradication and control of swine diseases: to make an appropriation to the Department of Agriculture and Industries for the fiscal year ending September 30, 1981, to indemnify owners of swine for the value of any swine ordered condemned and destroyed for the prevention and eradication of the disease of hog cholera, African swine fever and other swine diseases.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1981, there is hereby appropriated to the Department of Agriculture and Industries out of any monies in the state treasury not otherwise appropriated the sum of One Hundred Thousand Dollars (\$100,000), or so much thereof as may be necessary for the fiscal year, which said sum shall be used and expended by said department for the purpose of paying and indemnifying the owners of swine for the value of any swine ordered and directed to be condemned and destroyed by the Commissioner of Agriculture and Industries or the State Veterinarian for the purpose of arresting, eradicating and preventing the spread of hog cholera disease, African swine fever and other diseases of swine. The amount of any payments to owners of swine from the appropriation herein made shall be determined pursuant to the procedure and method set forth under Sections 2-15-160 through 2-5-168 of the Code of Alabama, 1975.

**Section 2.** The appropriation herein made shall be conditioned upon the condition of the general fund and with the approval of the Governor.

**Section 3.** This Act shall become effective on October 1, 1980.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-697

H. 555—Stout

## AN ACT

To authorize and make provision for any municipality or county or any department, board, bureau, commission or agency of any municipality or county, whether incorporated or not, or any municipal public corporation incorporated with the approval of, or the directors of which are elected or appointed by the governing body of any municipality or county, to apply for, accept and receive, expend or apply

the proceeds of, to agree to comply with the conditions of, or to loan, advance or donate to, another public body, or to any person, firm or corporation, any gift, grant, appropriation, donation or advance, by or from the United States of America, the State of Alabama or any other public or private donor; to empower and authorize each municipality or county and each such municipal public corporation to anticipate the receipt of the proceeds of any such grant, gift, appropriation, donation or advance, by loan or assignment, and as evidence of such loan or assignment to issue its bonds, warrants, notes or certificates of indebtedness, which may be either general obligations or special or limited obligations; to provide for the source of payment and security for such obligations; to provide that such obligations shall be legal investments for public bodies, bankers, insurers and fiduciaries and others; to exempt such obligations from taxation; and to authorize municipalities or counties and such municipal public corporations to pledge and grant security interests in the proceeds of gifts, grants, appropriations, donations or advances, as security for bonds, warrants, notes, or certificates of indebtedness issued by such municipality or county or such municipal public corporation under authority of laws other than this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Definitions. As used in this act, the following words and terms shall have the following respective meanings:

“Conditions of a Grant” means the terms and conditions upon which a Grant is made by a Donor.

“County” means any county in the State of Alabama.

“Donor” means the United States of America, or the State, or any county in the State or any Municipality or any department, division, board, bureau, institution or agency of any of the foregoing, or any person, firm or corporation, institution, foundation or other agency or any combination of any two or more such Donors.

“Governing Body” means the council, commission, board of directors or other group or body which governs, controls or makes decisions for a Grantee.

“Grant” means any gift, grant, appropriation, donation, or advance by any Donor, whether absolute or conditional, for any purpose.

“Grantee” means any Municipality, or any department, board, bureau, commission or agency of any Municipality, whether incorporated or not, acting on behalf of the Municipality, or any Public Corporation, to which a Grant is to be made.

“Municipality” means any city or town incorporated under the laws of the State.

“Public Corporation” means any board, authority or other municipal public corporation incorporated with the approval of, or

the directors of which are elected or appointed by, the Governing Body of a Municipality. A city board of education shall be considered a Public Corporation within the meaning of this act.

“Securities” means one or more bonds, notes, warrants or certificates of indebtedness of a Municipality or Public Corporation.

“State” means the State of Alabama.

**Section 2.** Power and Authority of Grantees. Each Grantee shall have the power, and, when approved by its Governing Body, the authority, to do or perform any one or more of the following:

- a. To apply to any Donor for a Grant and to pay the expenses involved in making such application;
- b. To accept and receive Grants from any Donor;
- c. To expend or apply the proceeds of any Grant for the purpose or purposes for which the same is made;
- d. To agree to comply with the Conditions of the Grant;
- e. To pay over or donate or loan to any board, authority or agency of the Grantee, or to any Municipality, or to any Public Corporation, or to any county or counties in the State or to the State, or to any board, bureau, authority, institution, or agency of the Grantee, or of such Public Corporation, or of such county or counties, or of the State or to any person, firm or corporation, any Grant proceeds authorized or permitted to be so paid over, donated or loaned by the Conditions of the Grant.

**Section 3.** Power and Authority of Municipalities, Counties and Public Corporations. Each Municipality or county and each Public Corporation shall have the power and, when approved by its Governing Body, the authority, to do or perform any one or more of the following:

- a. To anticipate the receipt of any Grant either by loan or by assignment or both; to issue Securities to evidence such loan or assignment; to make such Securities the general obligation indebtedness of the issuer or the obligation of the issuer limited or restricted as to source of payment and security to all or a portion of the proceeds of the Grant or to any revenue, receipts or income or any special tax or license of the issuer, or any one or more thereof.
- b. To pledge to the holders of any Securities issued pursuant to this act the full faith and credit of the issuer and in addition to, or instead of such pledge, to pledge and grant a security interest in all or a portion of the proceeds of the Grant or any revenue, receipts or



income or any special tax or license of the issuer, or any one or more thereof; or to mortgage or grant a security interest in any property of the issuer as security for any such Securities, as the Governing Body of the issuer may determine.

c. To pledge, assign and grant a security interest in all or any part of the proceeds of any Grant to the holders of any Securities issued by the Municipality, County or the Public Corporation for any lawful purpose under the authority of any law other than this act.

**Section 4. Limitations and Amplification of Securities Authorization.** Securities issued under the authority of this act shall mature at such time or times as the Governing Body of the issuer shall determine, not later than the date on which the last installment of the Grant is reasonably expected to be received. The total principal amount of Securities which may be issued in respect of a Grant shall not exceed the reasonably estimated proceeds of the Grant. The determination of the Governing Body of the issuer of the date on which the last installment of the Grant will be received and the amounts of the proceeds of any Grant to be received shall be conclusive. Securities issued under the authority of this act shall be of such denomination and tenor, shall contain such covenants and restrictions and provisions and shall be payable at such place or places, within or without the State, as the Governing Body of the issuer shall determine. Such securities shall be executed in the name of the issuer by the mayor or other chief executive officer and attested by the clerk or secretary thereof, with the seal of the issuer impressed thereon, but coupons for interest, if interest is evidenced by coupons, need be signed only by the mayor or other chief executive officer. Execution by facsimile signature and seal in the manner authorized by law for bonds of a Municipality or County may be authorized by the Governing Body.

**Section 5. Exemption of Securities from Taxation.** All securities issued by authority of this act and the interest thereon shall be exempt from all taxation in the State.

**Section 6. Legal Investment Status of Securities.** Securities issued under the authority of this act shall be securities in which the State, Grantee, all counties and political subdivisions of the State, their officers, boards, departments or agencies and all banks, bankers, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies and insurance associations and other persons carrying on an insurance business, all administrators, executors, guardians, trustees and other fiduciaries, and all other persons who now are or may hereafter be

authorized to invest in securities issued by a Municipality or County, may properly and legally invest any funds, including capital belonging to them or within their control.

**Section 7. Additional Authority.** This act is intended to grant additional authority to Grantees, Municipalities, Counties and Public Corporations and shall not be considered to repeal, restrict or modify any law now in effect or hereafter enacted.

**Section 8. Severability.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the parts which remain.

**Section 9. Effective Date.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-698

H. 1004—Turnham

### AN ACT

To amend Section 34-8-22 of the Code of Alabama 1975 relating to the state licensing board for general contractors so as to further provide for the per diem of the members of the board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 34-8-22 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 34-8-22. When the governor appoints said board, he shall designate and commission one of its members as chairman, another as vice-chairman and another as secretary-treasurer. Said board shall have the power to make such bylaws, rules and regulations as it shall deem best, provided the same shall not conflict with the laws of the state of Alabama. The secretary-treasurer shall give bond in such sum as the board shall determine with such surety as shall be approved, said bond to be conditioned upon the faithful performance of the duties of his office and for the faithful accounting of all moneys and other properties as shall come into his hands. Each member of the board shall receive \$50.00 per day for attending sessions of the board or its committees, and for time actually spent in necessary travel in attending meetings of said board or its committees and in addition shall be reimbursed for

necessary traveling and clerical expenses incurred in carrying out the provisions of this chapter. All expenses certified by the board as properly and necessarily incurred in the discharge of its duties, including authorized compensations, office rent and supplies shall be paid out of the state licensing board for the general contractors' fund in the state treasury in the manner provided in section 34-8-25; provided, that no funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of article 4 of chapter 40 of Title 41 of this Code, and only in the amounts as stipulated in the general appropriation bill."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-699

H. 770—Waggoner

### AN ACT

To provide for bringing certain employees of the disability determination division of the state department of education into the classified service of the state merit system.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** On the first day of the first month beginning after the effective date of this act, every employee of the disability determination division of the state department of education who:

(1) was initially employed at a time when the state merit system employment registers from which the disability determination division could select employees had been exhausted, and could not be replenished because the state personnel board was under order of a federal court not to give examinations to establish new registers,

(2) has been employed continuously by said disability determination division for a period of four or more years, and

(3) has rendered satisfactory service in the position currently held,

shall be covered under the state merit system, without examination, and shall immediately become an employee in the classified service of the state in a position comparable to the position

held by such person when this act becomes law. Thereafter all the benefits of the state merit system shall be extended to such employees.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-700

H. 665--Lewis

### AN ACT

To provide revenue by levying a privilege tax on gummed cigarette papers and to provide for the assessment and collection of such tax; conferring powers and imposing duties on the department of revenue; and to prescribe penalty for enforcement.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the purposes of this Act, the following terms shall have the respective meanings ascribed to them by this section:

(1) **PERSON.** Individuals, firms, corporations, partnerships, companies, or other agencies, associations, incorporated or otherwise, singular or plural.

(2) **WHOLESALE SALE.** A sale of tangible personal property by wholesalers to licensed retail merchants, jobbers, dealers or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale.

(3) **NET TAX PROCEEDS.** The entire proceeds from the tax herein levied less cost of collection, refunds, grants and credits as may be authorized by law.

(4) **STATE.** The state of Alabama.

(5) **DEPARTMENT.** The department of revenue of the state of Alabama.

(6) COMMISSIONER. The commissioner of the department of revenue of the state of Alabama.

**Section 2.** There is hereby levied a tax of 25¢ per package on all gummed cigarette papers sold at wholesale in this state or imported into this state for use, consumption, or sale at retail.

**Section 3.** Before any person engages in the business of selling any of these items on which the tax levied by this Act has not been paid to the department of revenue, such person shall make application to the department of revenue upon forms prepared by the department for a license. Said license shall be a condition precedent to engaging or continuing in the business of selling those items taxed under this Act.

**Section 4.** On or before the twentieth day of each month each person on whom the tax levied by this Act is imposed shall render to the department of revenue on forms prescribed by the department a true and correct statement showing the amounts utilized in the measurement of the tax and such other information as the department may require and shall pay to the department the amount of tax shown due.

**Section 5.** All persons subject to the provisions of this Act shall keep for not less than three years, such books, documents, records or other papers as will clearly show the amount of tax due and such books, documents, records or other papers shall be open for examination at any time by the department of revenue or its duly authorized agents.

**Section 6.** Any person subject to this Act who shall fail to make any report required of them by the department of revenue or shall fail to keep any of the records required herein shall be guilty of a class B misdemeanor. Each month of such failure shall constitute a separate offense.

**Section 7.** Any person who fails to pay the tax herein levied within the time required shall pay, in addition to the tax, a penalty of 25 percent of the amount of tax due, together with interest thereon at the rate of one percent per month, or fraction thereof, from the date at which the tax herein levied became due and payable, such penalty and interest to be assessed and collected as a part of the tax. The department of revenue, if a good and sufficient reason is shown, may waive or remit the penalty of 25 percent or a portion thereof.

**Section 8.** If any taxpayer fails to make the returns herein required, the department shall make return for such delinquent taxpayer upon such information as it may reasonably obtain, and

shall assess the taxes due thereon, and shall add a penalty for failure to make such return of twenty-five percent of the tax due, as assessed by the department, and interest at the rate of one percent per month, or fraction thereof, from the date such taxes were due. Provided the department, if a good and sufficient reason is shown for such delinquency, may waive or remit the twenty-five percent penalty, or a portion thereof.

**Section 9.** Whenever the department in examining and auditing the records of any taxpayer, or from other information, shall ascertain that the amount or amounts previously paid by the taxpayer for any period or periods is incorrect, the department shall compute the correct amount of tax due and, if it appears that the amount paid by the taxpayer is in excess of the correct amount due, such excess shall be refunded to the taxpayer in accordance with law and under the rules and regulations of the department. If it appears that the amount paid by such taxpayer is less than the amount due, the department shall compute the amount of such deficiency and shall notify the taxpayer, thereof and shall demand payment with interest of one percent per month or fraction thereof from the date such tax became due to the date of payment thereof. Such notice and demand shall be a preliminary assessment for the amount demanded to be paid and the notice thereof shall so state. The assessment provided for herein shall be made in accordance with the provisions of Section 9 of this Act.

If the tax demanded under this section be not paid within twenty days from the date of the notice thereof, there shall be added thereto a penalty of one percent per month or fraction thereof from the date such tax became due to the date of payment. Provided that the department may, if a good and sufficient reason is shown, waive or remit the penalty or a portion thereof. Provided further, that if the department be of the opinion that there was a willful or fraudulent intent by the taxpayer to avoid the tax due, it may assess a penalty of twenty-five percent of the tax. Provided that upon appeal such action shall be reviewable.

**Section 10.** Whenever the department shall make an assessment against a taxpayer as herein provided, the department shall notify the taxpayer by registered or certified mail of the amount of such assessment, and shall notify the taxpayer that he may appear before the department on a day named not less than twenty days from date of such notice and show cause why such assessment should not be made final. Such appearance may be made by agent or attorney. If no showing is made on or before the date fixed in such notice, or if such showing is not sufficient in the judgment of the department, such assessment shall be made final in

the amount originally fixed or in such other amount as is determined by the department to be correct. If upon such hearing the department finds the amount due to be different from that originally assessed, it shall make the assessment final in the correct amount and in all cases shall notify the taxpayer of the assessment as finally fixed. Provided a notice by the United States mail addressed to the taxpayer's last known place of business shall be sufficient. Any assessment made by the department shall be prima facie correct upon appeal.

**Section 11.** (a) Whenever any taxpayer, who has duly appeared and protested an assessment by the department, is dissatisfied with the assessment as finally made, such taxpayer may appeal in all respects in the same manner provided by Section 40-2-22, Code of Alabama 1975, as amended. Provided, no appeal shall lie in cases where the taxpayer has failed to appear and protest.

(b) Any notice, provided for by this Act, of an amount due under this Act shall be given or any action in court for the collection of such amount shall be begun within three years of the due date of such amount. Provided, however, in the case of a false or fraudulent return with intent to evade payment of taxes imposed by this Act or a failure to file a return, the tax may be assessed or a proceeding in court for the collection of such tax may be begun at any time. The department of revenue and the taxpayer, before the expiration of the time prescribed herein, may agree in writing to an extension of the time during which such proceedings may be begun. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The department of revenue shall also be authorized in such agreement to extend equally the period within which the taxpayer may file a claim for refund of such taxes where such agreement is entered into before a claim for refund is barred because of the lapse of time. The commissioner of revenue shall adopt such rules and regulations as he deems necessary for the proper administration of this section.

**Section 12.** The tax imposed by this Act shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business taxable hereunder.

**Section 13.** If any final assessment of taxes herein levied be not paid within thirty days after such assessment becomes final and if no appeal has been taken, in cases where an appeal is authorized, the department shall issue an execution therefor directed to any sheriff of the state of Alabama commanding said sheriff to levy upon and sell the real and personal property of the person against

whom such execution is directed, found in the county of said sheriff, together with all penalties assessed.

The sheriff thereupon shall levy upon any property of the taxpayer with like effect and in the manner prescribed by law in respect to execution issued upon judgments of the circuit court or court of like jurisdiction, and the remedies of attachment and garnishment shall apply fully to such execution, and the officer shall be entitled to the same fees for his services as now allowed by law for like services to be collected in the same manner as now provided by law for like services. The sheriff shall make due return of such execution within sixty days of the issuance thereof to the department and upon such return alias or pluries executions may be issued by the department which shall be executed in the same manner. Such lien shall not be valid against any mortgagee, purchaser, or judgment creditor until notice has been filed in the office of the judge of probate as provided for under Section 40-1-2, Code of Alabama 1975, as amended.

**Section 14.** The tax herein levied shall constitute a debt due the state of Alabama and may be collected by civil suit, in addition to the methods herein provided, brought at any time within three years after the tax has become due and payable.

**Section 15.** Any taxpayer who shall violate any of the provisions of this Act may be restrained from continuing in business, and the proper prosecution shall be instituted in the name of the state of Alabama by its attorney general, by the counsel of the department or under their direction by any circuit solicitor of the state until such person shall have complied with the provisions of this Act.

**Section 16.** The department of revenue is hereby charged with the enforcement of the provisions of this act and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce, rules and regulations, relating to any matter or thing pertaining to the administration and enforcement of the provisions of this act, and the collection of taxes, penalties and interest imposed by this Act.

**Section 17.** The department for good cause may grant up to a 30 day extension for the time for making any return required under the provisions of this Act.

**Section 18.** If upon examination it is determined by the department that an amount of tax or an amount required to be collected has been paid to the state in excess of the amount properly due, then the amount in excess shall be credited against any tax or



amount required to be collected then due from such person and any balance of such excess shall be refunded to such person by whom such overpayment was made, by certificate of overpayment issued by the department to the comptroller. If approved by the comptroller, he shall draw his warrant on the treasurer for the amount so certified to be due.

**Section 19.** All taxes or other funds received or collected by the department under the provisions of this Act shall be deposited in the treasury without delay.

**Section 20.** Such amount of money as shall be appropriated for each fiscal year by the legislature to the department of revenue with which to pay the salaries, the cost of operation and management of said department shall be deducted, as a first charge thereon, from the taxes collected under the provisions of this Act; provided, however, that the expenditure of said sum so appropriated shall be budgeted and allotted pursuant to Section 41-4-80 through 41-4-96 of the Code of Alabama 1975, and limited to the amount appropriated to defray the expenses of operating said department for each fiscal year.

**Section 21.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 22.** All laws or parts of laws which conflict with this Act are repealed.

**Section 23.** This Act shall become effective on the first day of the second month next following its passage and approval by the governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-701

H. 84—Holmes

### AN ACT

To levy an additional privilege and license tax on the sale, storage, use, consumption, or delivery of cigarettes within this state; providing for the collection and enforcement of such taxes and providing that the proceeds thereof shall be credited to the state general fund and provides for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) In addition to all other taxes of every kind now

imposed by law, every person, firm, corporation, club, or association within the state of Alabama who sells, or stores, or receives for the purpose of distribution to any person, firm, corporation, club, or association within the state of Alabama any cigarettes shall collect and pay over to the state of Alabama a license or privilege or excise tax at the rates hereinafter set forth upon the selling, use, consumption, distribution, storing or withdrawal from storage in this state of cigarettes for any use. Provided, that where the tax as hereinafter set forth shall have been paid to the state by any such person, firm, corporation, club, or association, such payments shall be sufficient, the intent being that the tax shall be paid to the state but once. The tax hereby levied shall be at the following rates:

On each package of cigarettes containing twenty cigarettes or less, four cents; on each package of cigarettes containing more than twenty but not exceeding forty cigarettes, eight cents; and on each package of cigarettes containing more than forty cigarettes, ten cents.

(b) Every such person, firm, corporation, club, or association shall add the amount of the tax levied and assessed herein to the sales price of the cigarettes, it being the purpose and intent of this provision that the tax levied is in fact a levy on the consumer or user with such person, firm, corporation, club, or association acting merely as an agent of the state for the collection and payment of the tax to the state. For the convenience of collection, such person, firm, corporation, club, or association shall be required to purchase tax stamps from the state of Alabama, and affix the same to the packages at the rates set out hereinabove and in the manner provided by Section 2, hereof.

(c) When the retail or selling price is referred to herein as the basis for computing the amount of stamps required on any article, it is intended to mean the retail or selling price of the articles before adding the amount of the tax.

**Section 2.** The taxes herein levied shall be paid through the use of stamps, and shall be paid to and collected by the State Department of Revenue at the same time and in the same manner as provided for the payment and collection of the taxes on tobacco and tobacco products levied by Chapter 25 of Title 40 of the Code of Alabama 1975, or any laws amendatory thereof or supplemental thereto, and all the exemptions, definitions, proceedings, rules, regulations, requirements, provisions, penalties, fines, punishments, and deductions set out in said chapter, or any laws amendatory thereof or supplemental thereto, including all the provisions for the enforcement and collection of the tax levied by

said chapter, as amended, shall except as otherwise provided herein, apply to the payment and collection of the tax levied by this Act. It is provided, however, that the State Department of Revenue shall furnish, for affixing to the boxes, packages, or containers of the cigarettes as enumerated in this Act single stamps of the requisite denominations to represent the payment of the tax levied hereby as well as the tax levied by said chapter, as amended.

**Section 3.** After payment of the administrative cost of this Act, the proceeds of the taxes levied herein shall be paid into the State Treasury to be credited to the state general fund.

**Section 4.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 6.** This Act shall become effective two months after the date of its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-702

H. 98—Turnham

### AN ACT

To amend Section 9-18-1, Code of Alabama 1975, which provides for the Southern Interstate Nuclear Compact and repeals Sections 9-18-2 through 9-18-6, Code of Alabama 1975, which further provide for said Compact, so as to change the name of the Southern Interstate Nuclear Compact and the Southern Interstate Nuclear Board to the Southern States Energy Compact and the Southern States Energy Board, respectively; to expand the membership of the Board from one member per state to three members per state; to provide that one member shall be appointed by the Governor, and one each by the Presiding Officers of the House of Representatives and the Senate; to expand the member states to allow for membership by Missouri, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands; to change the purview and activities of the Board from nuclear power to all energy sources and environmental quality; and to provide for expenses for Board members when attending upon official Board business.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 9-18-1, Code of Alabama 1975, is hereby amended to read as follows:

“§ 9-18-1.

"The Legislature hereby enacts, and the State of Alabama hereby enters into, the Southern States Energy Compact with any and all states legally joining therein in accordance with its terms, in the form substantially as follows:

"Southern States Energy Compact

"Article I. POLICY AND PURPOSE.—The party states recognize that the proper employment and conservation of energy and employment of energy-related facilities, materials, and products, within the context of a responsible regard for the environment, can assist substantially in the industrialization of the South and the development of a balanced economy for the region. They also recognize that optimum benefit from an acquisition of energy resources and facilities requires systematic encouragement, guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and framework for such a cooperative effort to improve the economy of the South and contribute to the individual and community well-being of the region's people.

"Article II. BOARD.

"(a) There is hereby created an agency of the party states to be known as the 'Southern States Energy Board' (hereinafter called the board). The board shall be composed of three members from each party state, one of whom shall be appointed or designated in each state to represent the Governor, the State Senate, and the House of Representatives, respectively. Each member shall be designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provision therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

"(b) Each party states shall be entitled to one vote on the board, to be determined by a majority vote of each member of member's representative from the party state present and voting on any question. No action of the board shall be binding unless taken at a meeting at which a majority of all party states are represented and unless a majority of the total number of votes on the board are cast in favor thereof.

“(c) The board shall have a seal.

“(d) The board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The board shall appoint an executive director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer, shall be bonded in such amounts as the board may require.

“(e) The executive director, with the approval of the board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the board’s functions irrespective of the civil service, personnel, or other merit system laws of any of the party states.

“(f) The board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the board shall be eligible for social security coverage in respect of old age and survivors’ insurance, provided that the board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

“(g) The board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm, or corporation.

“(h) The board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same.

“(i) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold, and convey real and personal property and any interest therein.

“(j) The board shall adopt bylaws, rules and regulations and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

“(k) The board annually shall make to the Governor of each party state, a report covering the activities of the board for the

preceding year, and embodying such recommendations as may have been adopted by the board, which report shall be transmitted to the legislature of said state. The board may issue such additional reports as it may deem desirable.

“Article III. FINANCES.

“(a) The board shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

“(b) Each of the board’s budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One-half of the total amount of each budget of estimated expenditures shall be apportioned among the party states in equal shares; one-quarter of each such budget shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last decennial federal census; and one-quarter of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the federal census-taking agency. Subject to appropriation by their respective legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff or personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

“(c) The board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact, provided that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under Article II(h) hereof, the board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

“(d) The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the board.

“(e) The accounts of the board shall be open at any reasonable time for inspection.

“Article IV. ADVISORY COMMITTEES.—The board may establish such advisory and technical committees as it may deem necessary, membership on which to include but not to be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of state, local, and federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

“Article V. POWERS.—The board shall have power to:

“(a) Ascertain and analyze on a continuing basis the position of the South with respect to energy, energy-related industries, and environmental concerns.

“(b) Encourage the development, conservation, and responsible use of energy and energy-related facilities, installations, and products as part of a balanced economy and a healthy environment.

“(c) Collect, correlate, and disseminate information relating to civilian uses of energy and energy-related materials and products.

“(d) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

“1. Energy, environment, and application of energy, environmental, and related concerns to industry, medicine, or education, the promotion or regulation thereof.

“2. The formulation or administration of measures designed to promote safety in any matter related to the development, use, or disposal of energy and energy-related materials, products, installations, or wastes.

“(e) Organize and conduct, or assist and cooperate in organizing and conducting demonstrations of energy product, material, or equipment use and disposal and of proper techniques or processes for the application of energy resources to the civilian economy or general welfare.

“(f) Undertake such non-regulatory functions with respect to sources of radiation as may promote the economic development and general welfare of the region.

“(g) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to energy and environmental fields.

“(h) Recommend such changes in, or amendments or additions to, the laws, codes, rules, regulations, administrative procedures and practices, or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstance which may justify variations to meet local conditions.

“(i) Prepare, publish and distribute, (with or without charge) such reports, bulletins, newsletters or other material as it deems appropriate.

“(j) Cooperate with the United States Department of Energy or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interests.

“(k) Act as licensee of the United States Government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

“(l) Ascertain from time to time such methods, practices, circumstances and conditions as may bring about the prevention and control of energy and environment incidents in the area comprising the party states, to coordinate the environmental and other energy-related incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with energy and environmental incidents. The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with energy and environmental incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

#### “Article VI. SUPPLEMENTARY AGREEMENTS.

“(a) To the extent that the Board has not undertaken any activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of



financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

“(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

“(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to this compact.

#### “Article VII. OTHER LAWS AND RELATIONSHIPS.

“Nothing in this compact shall be construed to:

“(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

“(b) Limit, diminish, or otherwise impair jurisdiction exercised by the United States Department of Energy, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress.

“(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

“(d) Permit or authorize the Board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the Board own or operate any facility or installation for industrial or commercial purposes.

#### “Article VIII. ELIGIBLE PARTIES, ENTRY FORCE AND WITHDRAWAL.

“(a) Any or all of the states of Alabama, Arkansas, Delaware,

Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, the Commonwealth of Puerto Rico, and the United States Virgin Islands shall be eligible to become party to its compact.

“(b) As to any eligible party state this compact shall become effective when its legislature shall have enacted the same into law; provided that it shall not become initially effective until enacted into law by seven states.

“(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the governor of the withdrawing state shall have sent formal notice in writing to the governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw.

#### “Article IX. SEVERABILITY AND CONSTRUCTION.

“The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be effected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.”

**Section 2.** Sections 9-18-2, 9-18-3, 9-18-4, 9-18-5 and 9-18-6, Code of Alabama 1975, are hereby repealed.

**Section 3.** (a) The Governor shall serve as one member of the Southern States Energy Board or may appoint another person to serve as his representative. Either the Governor or the person appointed by the Governor may designate another person as a deputy or assistant to such member.

(b) The President of the Senate shall appoint one member of the Southern States Energy Board from among the membership of

the Senate. The President or the member may designate another person as a deputy or assistant to such member.

(c) The Speaker of the House of Representatives shall appoint one member of the Southern States Energy Board from among the membership of the House. The Speaker or the member may designate another person as a deputy or assistant to such member.

Pursuant to Article II of the Compact, members shall serve at the pleasure of their appointive authority for a term of four years. If any such member be the head of a department or agency of this state, he may designate a subordinate officer or employee of his department or agency to serve in his stead as permitted by Article II(a) of the Compact and in conformity with any applicable bylaws of the Board.

**Section 4.** No supplementary agreement entered into pursuant to Article VI of the Compact and requiring the expenditure of funds or the assumption of an obligation to expend funds in addition to those already appropriated shall become effective as to this state unless funds therefor are or have been appropriated therefor as provided by law.

**Section 5.** All departments, agencies and officers of this state and its political subdivisions are hereby authorized to cooperate with the Southern States Energy Board in the furtherance of any of its activities pursuant to the Compact.

**Section 6.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 8.** The provisions of this Act shall become effective at such time as nine of the party states to the Southern Interstate Nuclear Compact approve substantially the same changes in the Compact as are provided for in this Act and the Congress of the United States consents to the Compact, substantially as amended by this Act. Until such time as this Act becomes effective, this state shall continue to remain a member of the Southern Interstate Nuclear Compact.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-703

H. 204—Adams (C)

## AN ACT

To provide that county commissions may meet one day the following week if the regular meeting day falls on a legal public holiday, and provides for notice of such meeting.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** When the regular meeting day of a county commission falls on a legal public holiday, the county commission may meet on any day of the following week instead of on such holiday, provided that at least 3 days prior notice of the meeting time and place appears in a newspaper having county-wide circulation.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-704

H. 261—Payne, Pegues, Cobb, Warren,  
Cates, Biddle, Sandusky,  
Gafford, Waggoner, Olive

## AN ACT

To amend Section 41-5-9, Code of Alabama 1975, which provides for the salaries of Chief Examiner and Assistant Chief Examiner of Public Accounts, so as to permit the Legislative Committee on Public Accounts to fix the salary of the Chief Examiner.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-5-9, Code of Alabama 1975, is hereby amended to read as follows:

“§ 41-5-9. (a) The salary of the chief examiner of public accounts shall be fixed from time to time by the legislative committee on public accounts.

“(b) The salary of the assistant chief examiner shall be fixed by the chief examiner at an amount not to exceed \$1,000.00 less than the amount fixed by the legislative committee on public accounts as the salary for the chief examiner.

“(c) The compensation for the chief examiner and the

assistant chief examiner shall be paid out of funds appropriated to the department of examiners of public accounts and in the same manner as salaries of other officers and employees are paid."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-705

H. 565—McMillan, Penry

### AN ACT

Relating to Baldwin County; authorizing the county governing body to employ highway personnel and to purchase or lease equipment and materials and to contract therefor for the construction, maintenance and repair of public roads, bridges and ferries, and to provide for the payment therefor, the "captive" county status of Baldwin County notwithstanding.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any special, local or general law to the contrary notwithstanding, the Baldwin County governing body, upon adoption of a resolution, is authorized to employ, supervise and direct highway personnel necessary to construct, maintain and repair public roads, bridges and ferries, together with or supplemental to those persons now employed by the state highway department.

**Section 2.** Any special, local or general law to the contrary notwithstanding, the Baldwin County governing body is authorized, upon adoption of a resolution, to purchase or lease equipment and materials and to contract for the purchase or lease of equipment and materials necessary for the construction, maintenance and repair of public roads, bridges and ferries in Baldwin County.

**Section 3.** The Baldwin County governing body is authorized to provide, upon adoption of a resolution, for the compensation of personnel, and the payment for the purchase or lease of equipment and materials in the same manner as heretofore; provided, however, that additional appropriations from the county treasury may be made therefor as prescribed in Act 79-671, H. 846 of the 1979 Regular Session.

**Section 4.** All laws and parts of laws, whether special, local

or general, in direct conflict with the provisions of this Act are repealed only to the extent of such conflict.

**Section 5.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-706

H. 668—Kennedy, Turner, Parker,  
Stewart, Warren, McKee,  
Grouby, Buskey, McMillan,  
Zoghby, Howard, Albright,  
Harper (T), Turnham

### AN ACT

To amend Section 13-6-85 of the Code of Alabama 1975 relating to defacing tombstones, trees and shrubbery so as to provide further for certain criminal offenses involving graveyards and cemeteries and the penalties for such offenses.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 13-6-85 of the Code of Alabama is hereby amended to read as follows:

“Section 13-6-85. Any person who wilfully or maliciously injures, defaces, removes or destroys any tomb, monument, gravestone or other memorial of the dead, or any fence or any inclosure about any tomb, monument, gravestone or memorial, or who wilfully and wrongfully destroys, removes, cuts, breaks or injures any tree, shrub, plant, flower, decoration or other real or personal property within any cemetery or graveyard shall be guilty of a Class A misdemeanor.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-707

H. 901—Bennett, Amari

## AN ACT

To further amend Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, approved November 19, 1959 (Ala. Acts, 1959, p. 1376, et seq.), as heretofore amended, which Act No. 556 established a supplemental pension and relief or retirement system for firemen and policemen who are members of any pension and relief system established under Act No. 929 of the Regular Session of the Legislature of Alabama of 1951 (Ala. Acts, 1951, p. 1576, et seq.); and to provide that the amendments made by this Act to said Act No. 556 shall apply both prospectively and retroactively on and after May 2, 1978.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Purpose of this Amendatory Act. As herein used, the term "this amendatory act" means this Act.

By Act No. 738 of the Regular Session of the Legislature of Alabama of 1978 (Ala. Acts, 1978, pp. 1067-1078), the Legislature amended certain sections of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959 (Ala. Acts, 1959, pp. 1376, et seq.) which said Act No. 556 established a supplemental pension system for members of the fire departments and police departments of cities having a population of 250,000 or more. Said Act No. 738 was enacted on May 2, 1978. This amendatory act will adopt and apply prospectively and retroactively on and after May 2, 1978, all amendments which said Act No. 738, adopted on May 2, 1978, made to said Act No. 556, subject to the exception stated in the sentence next following. This amendatory act will not apply retroactively to any person or transaction, if such retroactive application thereto would impair, or undertake to impair, any contractual right, or other vested right, of any person in violation of the Federal or State constitution.

The purpose of such retroactive amendment of Act No. 556 is to eliminate any question as to the validity of the amendments of said Act No. 738 made to said Act No. 556.

**Section 2.** This amendatory act shall apply prospectively and also retroactively to May 2, 1978; provided, however, that this amendatory act shall not have any retroactive application to any person, or transaction, if such retroactive application would impair, or undertake to impair, any contractual right, or other vested right, of any person in violation of any provision of the Federal or State constitution.

**Section 3.** The amendments of Section 2 of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959 (Ala. Acts, 1959, pp. 1377 and 1378) made by this Section 3 of this amendatory act shall apply prospectively and also retroactively to and after the

2nd day of May, 1978, the same as if said amendments had been adopted on May 2, 1978, and had been continuously in effect since said date, subject to the exception stated in the sentence next following. Said Section 2 of said Act No. 556, as hereby amended, shall not apply retroactively to any person, or any transaction, if such retroactive application would impair, or undertake to impair, any contractual right, or other vested right, of any person in violation of any provision of the Federal or State constitution.

Subject to the exception stated in the next foregoing sentence, it is hereby provided that effective as of May 2, 1978, Section 2 of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959 (Ala. Acts, 1959, pp. 1377 and 1378) is hereby amended so as to read as follows:

“Section 2. Purpose of this Act. (a) It is the intent of the Legislature that the additional benefits provided by this Act shall be payable solely from the fund established by Section 6 hereof, and that in no event shall any such additional benefit be payable from the fund established under Act No. 929 of the Regular Session of the Legislature of 1951 (Ala. Acts, 1951, p. 1579), which is herein called ‘Act No. 929.’

“(b) As used in this subsection (b) and subsection (c), below, these terms have the meanings here given them: ‘this system’ means the pension system this Act establishes; ‘the fund’ means the fund that Section 6 establishes, including all assets and resources in the fund or to be received by the fund in the future, and all income in the fund or to be received by the fund in the future; ‘obligations of the system’ means all existing, future, or contingent obligations and liabilities of the system, including every pension, allowance or benefit which is payable, or which may become payable, out of the fund to any member of the system, or to any other person on account of such other person’s relation to a member of the system, and also including the matching payments which this Act requires the city to make to the pension system established by Act No. 929; ‘the Section 6 payments’ means the deductions from the members’ salaries and the matching payments by the city which Section 6 of this Act now requires to be made monthly to the fund; ‘supplemental payment’ means the supplemental payment subsection (c) of this Section 2 provides the governing body may require to be made monthly to the fund if the governing body determines that the fund and the anticipated Section 6 payments are not adequate to pay all obligations of the system.

‘Within 60 days from May 2, 1978, the Board of Managers, established by Section 4 of this Act, herein called ‘the Board’, shall



employ a competent actuary by a contract providing for the actuary to submit to the Board a written opinion on this question:

Will the fund, with the Section 6 payments being made thereto, be adequate to pay all obligations of the system?

"Such contract shall provide, in substance, that in the event the actuary's opinion answers the foregoing question in the negative, or indicates doubt as to whether such question should be answered affirmatively or negatively, then in such event the actuary will advise the Board the amount of the supplemental payment required to result in the fund sustained by the Section 6 payments and the supplemental payments being adequate to pay all obligations of the system. Upon receiving the actuary's opinion the Board shall promptly send copies of the opinion to the Mayor and the governing body of the city. If there is an organization or organizations comprised of policemen members or firefighter members, the Board will promptly furnish a copy of the actuary's opinion to every such organization. The actuary's opinion will be a public record, subject to inspection and copying by any member of the system or by any citizen.

"(c) After considering the said actuary's opinion and any other information the governing body of the city deems pertinent, the governing body shall determine whether the fund, with the Section 6 payments being made thereto, is adequate to pay all obligations of the system. If the governing body determines that the fund with the Section 6 payments being made thereto is inadequate to pay all obligations of the system, the governing body will determine the minimum monthly supplemental payment which would result in the fund, with the Section 6 payments and the supplemental payments being made thereto, becoming adequate to pay all obligations of the fund. Upon making such determination, the governing body shall adopt a resolution providing that beginning in the next calendar month subsequent to the adoption of such resolution the city shall pay monthly to the fund a supplemental payment in the amount which the governing body determines would result in the fund becoming adequate to meet all obligations of the system. One-half of the supplemental payment the governing body determines would be sufficient to render the fund adequate, as aforesaid shall consist of salary deductions and the other half thereof shall consist of city matching payments. The city will pay such salary deductions and the city's matching payments comprising the supplemental payment to the fund at the same time the city pays to the fund the Section 6 payments.

"The city governing body shall be authorized to decrease or discontinue the supplemental payments at any time the city

governing body determines, after considering actuarial advice, that the supplemental payments can be reduced or discontinued without impairing the ability of the fund to pay all obligations of the system. The governing body may effect such reduction or discontinuance of the supplemental payments by adopting a resolution providing for such discontinuance or reduction.'

"(d) This subsection (d) shall not apply if prior to the adoption of said subsection (d) the governing body of the city and the Board of Managers shall have taken all actions which subsection (b) and subsection (c), above, of this Section 2, required the said governing body and the said Board to take. If prior to the adoption of this subsection (d) the governing body or the said Board has failed to perform any act which either said subsection (b) or subsection (c) required the governing body or the said Board to perform, then as soon as practicable after the time whereon this subsection (d) is adopted, the governing body of the city or the Board, as the case may be, shall perform all acts which either said subsection (b) or (c) required said governing body or Board to perform and which the said governing body or Board failed to perform prior to adoption of this subsection (d).

**Section 4.** The amendments of Section 4 of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, made by this Section 4 of this amendatory act shall apply prospectively and also retroactively to and after the 2nd day of May, 1978, the same as if said amendments had been adopted on May 2, 1978, and had been continuously in effect since said date, subject to the exception stated in the sentence next following. Said Section 4 of said Act No. 556, as hereby amended, shall not apply retroactively to any person, or any transaction, if such retroactive application would impair, or undertake to impair, any contractual right, or other vested right, of any person in violation of any provision of the Federal or State constitution.

Subject to the exception stated in the next foregoing sentence, it is hereby provided that effective as of May 2, 1978, Section 4 of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, as heretofore amended, is hereby further amended so as to read as follows:

"Section 4. Board of Managers. There shall be a Board of Managers of three members for the administration, management and control of the Supplemental Pension System, including administration, management, control, acquisition and disbursement of the fund. The Board shall consist of the President of the governing body of the city, who shall be Chairman of the Board and two associate members, designated respectively as

'Member No. 1' and 'Member No. 2'. Member No. 1 shall be appointed by the Personnel Board. Member No. 1 shall be a person who at the time of his appointment is, and for a period of five consecutive years immediately preceding his appointment has been, an officer of, or the occupant of an executive position with, an insurance company issuing annuity policies and policies of disability insurance, the principal place of business of which insurance company is located within the city; provided, however, that if any such person is not available, the Personnel Board in appointing Member No. 1 shall select from the persons available that person who in the opinion of the Personnel Board is best qualified to discharge the duties of a member of the Board of Managers. Member No. 2 shall be elected from employees belonging to the Supplemental Pension System at an election to be held within sixty days from the date on which this Act becomes effective. The employee receiving a plurality of votes at the election shall be elected. At the first election to be held hereunder employees belonging to the System may vote for a fireman or policeman to hold the position to be occupied by Member No. 2 on the Board. In any election subsequent to the first election employees voting in such subsequent election shall not vote for any member of the System belonging to the same department (that is, fire department or police department, as the case may be) to which the person last elected Member No. 2 for a full term belonged at the time of his election. The purpose of the next preceding sentence is to rotate Member No. 2 between the fire department and the police department of the city. The governing body of the city shall have the authority to prescribe rules and regulations concerning the notice of and conduct of the election to select Member No. 2. Member No. 1 and Member No. 2 shall hold office for a period of four years, with the first term for both commencing on the date on which the first Member No. 1 and the first Member No. 2 have both been selected.

"If the commencement of the actual operation of the system hereby established is delayed, or deferred, as a consequence of the validity of this Act being called into question in litigation the four year terms of Member No. 1 and Member No. 2 shall not be deemed to begin until the litigation is terminated.

"The Board shall meet on the second Thursday in each calendar month; provided, however, that the Board shall not be required to meet unless there is pending before the Board some application for a pension relief or benefit or unless there is pending some other matter requiring consideration by the Board; and provided, further, that the Board by and through a resolution adopted by it may change the regular meetings from Thursday to such other time as may be convenient to the Board. Any two members of the Board,

after due notice having been given to all members of the Board, may meet in special meeting and transact any business of the Board provided the Secretary shall be present and record the proceeding of the special meeting as hereinafter provided. The Board shall meet in the office of the Chairman, or such other place as the Board may designate.

"The Personnel Director shall be secretary of the Board and shall be present at every meeting of the Board, and keep a record of all proceedings of the Board and of all orders and decisions of the Board. Neither the secretary nor any member of the Board shall receive any salary or compensation for his services as such except Member No. 1, who shall receive ten dollars for each meeting attended, but not more than twenty dollars for meetings attended in any calendar month. Two members of the Board, when assembled in either regular or special meeting, shall constitute a quorum for the transaction of any and all business of the Board, and the affirmative vote of two members shall be necessary and sufficient to pass any motion or resolution. The Board is empowered to make rules and regulations not inconsistent with the provisions of the system in regulation of its affairs and the system. The Board shall receive, investigate and pass upon all applications for retirement and disability and widow allowances and shall make retirement and disability and widow allowances in accordance with the system to all persons entitled thereto under the system and its decision upon all matters of fact shall be final and conclusive unless it shall be affirmatively made to appear that its decision is plainly and manifestly wrong. The Board is authorized to borrow money up to the par value of the securities of the fund and to pledge such securities for repayment of the money borrowed. The Board of Managers is authorized to secure, and to pay for with funds of the system, investment counsel and investment advice from individuals or firms experienced and specializing in furnishing such advice, and also the advice and services of accountants and auditors and legal advice and services and such other professional counsel, advice and services as the said Board deems necessary for the proper management and administration of the system. No money of the fund shall be invested, paid out or disbursed except pursuant to order or authorization of the Board. The Board shall be trustee, and have entire management and control of the fund, shall have sole and exclusive authority to invest its funds and shall direct investments of monies of the fund not needed to meet disbursements provided for in this Act in the loans to members hereinafter referred to and in bonds of the United States, the State of Alabama and any municipality of Alabama, and in bonds of corporations organized under Federal laws or under the laws of any State of the

United States; provided, however, that no funds shall be invested in bonds, or common or preferred stocks and stocks of private corporations unless such bonds are listed and upon exchange subject to the jurisdiction of the Securities and Exchange Commission, and the aggregate par value of the funds invested in such bonds or common or preferred stocks and stocks of corporations last referred to above shall not exceed fifty (50%) per cent of the par value of all investments of the funds exclusive of loans to members. In addition to methods of removal hereinabove provided for, any member of the Board may be removed by impeachment for corruption or malfeasance or misfeasance in office or for habitual neglect of duty. From the funds of the System created by this Act the Board of Managers shall pay to the fund of the General Retirement and Relief System the amounts hereinafter specified. When any fireman or policeman retires on length of service, as is hereinafter provided for in Section 8, the Board of Managers of this System shall pay from the fund of this System to the fund of the General Employees Retirement and Relief System, established by said Act No. 929 of the Regular Session of the Legislature of 1951, the amount specified in the next succeeding sentence during each month between the date on which such fireman or policeman retires and the date on which he would have been entitled to receive a retirement allowance from the General Retirement and Relief System for thirty (30) years service had he not retired, but had continued to serve without interruption as a member of the General Retirement and Relief System until entitled to receive from said last named system a retirement pension based on thirty (30) years service. During the period specified in the next preceding sentence the Board of Managers shall pay each month to the fund of the said General Retirement and Relief System the amount which the City would have deducted from the salary of such fireman or policeman and would have paid into the fund of the General Retirement and Relief System had such fireman or policeman continued to be employed by the City during the said period at the same salary from which the deductions were made by the city at the time he retired under Section 8 of this Act; provided, however, that if such fireman or policeman dies during the said period the said payments shall cease upon his death."

**Section 5.** The amendments of Section 5 of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, made by this Section 5 of this amendatory act shall apply prospectively and also retroactively to and after the 2nd day of May, 1978, the same as if said amendments had been adopted on May 2, 1978, and had been continuously in effect since said date, subject to the exception stated in the sentence next following. Said Section 5 of said Act No. 556, as

hereby amended, shall not apply retroactively to any person, or any transaction, if such retroactive application would impair, or undertake to impair, any contractual right, or other vested right, of any person in violation of any provision of the Federal or State constitution.

Subject to the exception stated in the next foregoing sentence, it is hereby provided that effective as of May 2, 1978, Section 5 of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, as heretofore amended, is hereby further amended so as to read as follows:

"Section 5. (a) Membership. The following shall be members of the Supplemental Pension System hereby created: Members of the fire department or police department of the city who belong to the General Retirement and Relief System, created by Act No. 929 on whose account the city makes no contribution, or pays no tax, to the United States of America under the Federal Social Security Act.

"(b) As used in this Act these terms have the meanings here given them: 'member' means a member of the pension system established by this Act; 'present member' means a person who was a member on May 2, 1978; 'future member' means one becoming a member subsequent to May 2, 1978; 'benefit' means a benefit payable under this Act to a member or to any person because of such person's relation to a member; 'dependent' means a person receiving a benefit on account of such person's relation to a member; 'Act 556 credited service' means a member's service with the city during the period while the salary deductions of Section 6 of this Act applied to him and also his service with the city during any period while the salary deductions did not apply to him, provided he exercises the option subsection (d) below, of this Section 5 accords him to have his service during said last mentioned period counted as Act 556 credited service; 'noncredited service' means a member's service with the city during any period while the salary deductions of Section 6 of this Act did not apply to him, provided, however, that his service during such period shall not be considered non-credited service after he has exercised the option said subsection (d) accords.

"(c) It is the intention of the Legislature that this subsection (c) shall not result in the reduction of any benefit payable to a member retiring prior to May 2, 1978, or in the reduction of any benefit payable to the dependent of any such member. It is the further intention of the Legislature that this subsection (c) shall be applicable only to those members who became members of the system after January 1, 1973. To achieve such intention it is hereby provided that this subsection (c) shall not apply to any benefit the

payment of which began prior to May 2, 1978. All benefits the payment of which began after May 2, 1978, shall be subject to this subsection (c).

"In determining the amount of any benefit subject to this subsection (c), with the aforementioned exceptions, the Board of Managers shall consider only Act 556 credited service as defined in subsection (b) of this Section 5.

"(d) As used in this subsection (d) these terms have the meanings here given them: 'this option' means the option for which this subsection (d) provides; 'liability for deficiency of salary deductions' means a member's liability to the fund resulting from his converting his non-credited service to Act 556 credited service under this option.

"A member's liability for deficiency of salary deductions shall be the sum of the following:

"(1) the amount which such member would have been paid to the fund during all the period of his noncredited service if during all of said period his salary had been that of a firefighter, in the case of a fireman, or that of a patrolman, in the case of a policeman, at the time such noncredited service accrued, and if such salary had been subject to the salary deduction provided for herein; and (2) interest at the rate of six percent (6%) per annum on each separate salary deduction such member would have paid to the system had he been a member during all of his noncredited service, which interest shall be calculated for the period beginning on the dates on which the respective salary deductions would have been paid, had he been subject to the said salary deduction provisions during all of his noncredited service, and ending on the date whereon the member discharges his liability for salary deductions by payment or executes the promissory note, provided for below, evidencing such liability.

"As hereinafter used in this subsection (d), the term 'the applicable date of subsection (d)' means the first date whereon this subsection (d) applies to the city. Any present or future member of the system may convert all of his Non-Credited Service to Act 556 Credited Service by doing either of these two things within ninety (90) days subsequent to the applicable date of subsection (d):

(1) by paying the fund in full the amount of his liability for deficiency of salary deductions, which amount shall be determined in the manner above prescribed in this subsection (d); or

(2) by delivering to the Board of Managers a promissory note executed by him payable to the order of the fund evidencing his

obligation to pay to the fund the amount required to discharge his liability for deficiency of salary deductions, which note shall provide for the interest and maturity date below prescribed.

"The governing body of the city shall prescribe the rate of interest which the said promissory note will require the member to pay on the unpaid balance of his liability for deficiency or salary deductions and shall prescribe the installments in which the note shall be payable, the last of which installments shall be payable not more than five years subsequent to the date whereon the said note is executed.

"The city shall pay to the fund an amount equal to any amount paid by a member under the provisions of this subsection (d).

**Section 6.** The amendments of Section 6 of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, made by this Section 6 of this amendatory act, shall apply prospectively and also retroactively to and after the 2nd day of May, 1978, the same as if said amendments had been adopted on May 2, 1978, and had been continuously in effect since said date, subject to the exception stated in the sentence next following. Said Section 6 of said Act No. 556, as hereby amended, shall not apply retroactively to any person, or any transaction, if such retroactive application would impair, or undertake to impair, any contractual right, or other vested right, of any person in violation of any provision of the Federal or State constitution.

Subject to the exception stated in the next foregoing sentence, it is hereby provided that effective as of May 2, 1978, Section 6 of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, as heretofore amended, is hereby further amended to read as follows:

"Section 6. Retirement and Relief Fund. (a) For the purpose of the deductions from salary provided for in this Section 6 the salary of a fireman or policeman shall be deemed to be the same as his salary is for the purpose of payroll deductions provided for in Section 9 of Act No. 929, as heretofore or hereafter amended.

"(b) At the end of each payroll period subsequent to the effective date of this Act, the city shall deduct from the salary of each fireman or policeman for such payroll period an amount equal to two and 35/100 percent (2.35%) of his salary for each such payroll period; provided, however, that the city shall not make any such deduction from the salary of any fireman or policeman for any payroll period which commences subsequent to that date whereon the fireman or policeman has served in the fire department or



police department for thirty (30) years.

“(c) The city shall promptly pay each and every deduction of salary provided for into a retirement and relief account hereinafter referred to as ‘the fund’. At the same time the city pays into the fund any deduction from the salary of any employee member, the city shall match such deduction by paying into the fund from its general and other appropriate funds an amount equal to the full amount of such deduction. Provided that the city shall not be required to match any deduction from the salary of any fireman or policeman who has thirty (30) years of creditable service.

“At the same time the city pays to the fund the member’s salary deductions and the city’s matching payments, above prescribed, the city will pay to the fund any supplemental payments required by any resolution the governing body of the city adopts pursuant to subsection (c) of Section 2 of this Act.

“The city comptroller is specifically charged with the duty of making such deductions from salaries and of making such payments into the fund. This fund shall include all assets of the fund in any form, and the city comptroller shall be ex officio, the custodian of the fund. The custodian shall keep a separate account of the fund and of all assets and liabilities thereof and of all receipts and disbursements thereof and of all prior service time and paid membership time of employee members. The custodian shall keep all monies of the fund in a separate bank account. The custodian shall keep in force and effect a bond in a penal amount equal to the total amount of monies and securities in his custody or possession, but in no event in excess of ten percent (10%) of the total assets of the fund, payable to the board and conditioned for faithful performance of the duties and for faithful accounting to the board for all monies, securities and property coming into his custody or possession as such custodian. Such bond shall be executed by a surety company authorized to do business in the State of Alabama, and the premium on such bond, and all necessary expenses of the board, shall be paid out of the fund upon order of the board. All bonds and securities acquired for the fund and which are registerable as to principal shall be registered by the custodian in the name of the system promptly upon acquisition and shall remain so registered until sold or otherwise disposed of by authority of the board. The board may select a banking institution located within the territorial jurisdiction of the city as subcustodian of securities, with authority to collect and remit to the custodian principal and interest of securities entrusted to its custody as the same may mature, and pay it such reasonable fees or compensation for its services as the board may deem proper, and the board may, if it sees

fit, waive bond of such institution as subcustodian so long as the net worth of the subcustodian exceeds one and one-half times the total par value of the securities entrusted to its custody. Securities in the custody of such subcustodian shall not be counted as in the custody of the custodian for the purpose of computing the amount of the custodian's bond. The board is authorized to accept and receive gifts, donations or legacies for the fund, and to administer same against the fund, the records of the city comptroller and custodian made and kept for the purpose of this act shall be deemed *prima facie*, to speak the truth."

**Section 7.** The amendments of subsection (a) of Section 8 of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, made by this Section 7 of this amendatory act shall apply prospectively and also retroactively to and after the 2nd day of May, 1978, the same as if said amendments had been adopted on May 2, 1978, and had been continuously in effect since said date, subject to the exception stated in the sentence next following. Said subsection (a) of Section 8 of said Act No. 556, as hereby amended, shall not apply retroactively to any person, or any transaction, if such retroactive application would impair, or undertake to impair, any contractual right, or other vested right, of any person in violation of any provision of the Federal or State constitution.

Subject to the exception stated in the next foregoing sentence, it is hereby provided that effective as of May 2, 1978, subsection (a) of Section 8 of Act No. 556 of the Regular Session of the Legislature of Alabama of 1959, as heretofore amended, is hereby further amended so as to read as follows:

"(a) Part 1 of subsection (a). The words, terms and phrases used in this Section 8 shall have the meaning ascribed to them by Act 929, unless it appears from the context that a different meaning is intended. As used in this Section 8 and the following Section 9 of this Act, these words and terms have the meanings hereby accorded them: 'deferred pension under the General Retirement and Relief System' means a pension granted to a fireman or policeman under Act 929, the payment of which does not commence until the pension granted to such fireman or policeman under this Act ceases; 'disabled child' means a fireman's or policeman's son or daughter regardless of age who becomes disabled prior to attaining age eighteen (18) with a medically determinable physical or mental impairment or impairments, by reason of which impairment, or impairments, the said son or daughter has been unable, and continues to be unable, to engage in any substantial gainful activity; 'eligible child' means a deceased fireman's or policeman's child who is under eighteen (18) years of age and has not married or who is a

disabled child.

"Part 2 of subsection (a). This Part 2 shall apply to every policeman and fireman who was a member of the system on May 2, 1978, and shall not apply to any policeman entering the police department or to any fireman entering the fire department subsequent to May 2, 1978.

"Any policeman or fireman subject to Part 2 of this subsection (a) after having acquired at least twenty years credited service hereunder shall, upon his application, be entitled to retire from the service and to receive upon his retirement from the fund of the system created by this Act, a monthly retirement allowance for the period and in the amount hereinbelow specified. Such monthly retirement allowance shall be payable between the date on which the policeman or fireman retires from the service and the date on which he would have accumulated thirty (30) years Credited Service had he not retired, but had continued working until acquiring thirty years Credited Service. Said monthly retirement allowance shall be in an amount equal to fifty percent (50%) of his Final Average Salary at the time of his retirement, plus one-half of one percent ( $\frac{1}{2}$  of 1%) of his Final Average Salary multiplied by the number of years of his Credited Service in excess of twenty (20) years of his Credited Service. The payment of such retirement allowance shall cease on the date whereon such fireman or policeman would have accumulated thirty (30) years of Credited Service had he continued to serve instead of retiring.

"Part 3 of subsection (a). This Part 3 shall apply to anyone becoming a member of the police department or fire department after May 2, 1978, and shall not apply to any person who was a member of either of the departments on May 2, 1978.

"Any policeman or fireman subject to Part 3 of this subsection (a) after having acquired at least twenty-five (25) years Credited Service hereunder, shall, upon his application, be entitled to retire from the service and to receive upon his retirement from the fund of the system created by this Act, a monthly retirement allowance for the period and in the amount hereinbelow specified. Such monthly retirement allowance shall be payable between the date on which the policeman or fireman retires from the service and the date on which he would have accumulated thirty (30) years Credited Service had he not retired, but had continued working until acquiring thirty (30) years Credited Service. Said monthly retirement allowance shall be in an amount equal to fifty percent (50%) of his Final Average salary at the time of his retirement, plus one-half of one percent ( $\frac{1}{2}$  of 1%) of his Final Average Salary multiplied by the number of years of his Credited Service in excess

of twenty-five (25) years of his Credited Service. The payment of such retirement allowance shall cease on the date whereon such fireman or policeman would have accumulated thirty (30) years of Credited Service had he continued to serve instead of retiring."

**Section 8.** After the effective date of this amendatory act, no further law shall be passed amending Act No. 556 of the Regular Session of the Legislature of Alabama of 1959 (Ala. Acts, 1959, p. 1376) which has the effect of extending or enlarging any benefits hereunder, or requiring any additional payment to the Fund by any city to which the same is applicable, except with the proviso that such amendment shall not be effective unless approved by a majority of the voters of such city at referendum.

**Section 9.** Severability. In the event that any clause, sentence, paragraph, section, or idea of this Act should be declared to be invalid, such declaration of invalidity shall not affect or render invalid any other part thereof.

**Section 10.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-708

H. 909—Hines

### AN ACT

To amend Section 40-20-2 of the Code of Alabama 1975, so as to further provide for the severance tax on the production of oil and gas.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-20-2 of the Code of Alabama 1975 is hereby amended to read as follows:

"§ 40-20-2.

"(a) There is hereby levied, to be collected hereafter, as herein provided, annual privilege taxes upon every person engaging or continuing to engage within the state of Alabama in the business of producing or severing oil or gas, as defined herein, from the soil or the waters, or from beneath the soil or the waters, of the state for sale, transport, storage, profit or for use. The amount of such tax shall be measured at the rate of six percent of the gross value of said oil or gas at the point of production. All wells producing less than 40

barrels of oil per day shall be taxed at the rate of four percent of the gross value of said oil or gas at the point of production. All wells that come into production after September 1, 1979, shall be taxed at the rate of four percent of the gross value of said oil or gas at the point of production for a period of 10 years after production begins. Ten years after production begins, such tax shall then be imposed at the rate of six percent on such wells that go into production after September 1, 1979; provided, that said additional increase shall be limited to those oil and gas wells from between 15,000 and 15,800 feet in the smackover formation.

“(b) The tax is hereby levied upon the basis of the entire production in this state, including what is known as the royalty interest, on which production the amount of such tax shall be a lien, regardless of the place of sale or to whom sold, or by whom used, or the fact that the delivery may be made to points outside the state; and the tax shall accrue at the time such oil or gas is severed from the soil or the waters, or from beneath the soil or the waters, and in its natural, unrefined or unmanufactured condition.

“(c) A county, city, town or municipality of the state of Alabama shall not establish, levy, impose or collect, as a condition of doing business or otherwise, any tax, fee, license or charge whatsoever, directly or indirectly, on or with respect to the production, treating, processing, ownership, sale, storage, purchase, marketing or transportation on any oil or gas produced in the state of Alabama and on which severance taxes have been paid to the state of Alabama, or upon the business of producing, treating, processing, owning, selling, buying, storing, marketing or transporting such oil or gas, or upon the ownership, operation or maintenance of plants, facilities, machinery, pipelines, gathering lines or any equipment whatsoever, which are, or may be, necessary or convenient to the production, treating, processing, ownership, storage, sale, purchase, marketing or transportation of such oil or gas; provided, that nothing herein shall be construed to prohibit, limit or restrict a county, city, town or municipality from imposing and collecting ad valorem taxes on any property, real or personal, not otherwise now exempted by law; further, the limitation herein imposed upon counties, cities, towns and municipalities shall not apply to any county, city, town or municipality which does not receive a share of the severance tax under the provisions of this article.

“(d) Nothing contained herein shall be deemed to limit or to enlarge the authority of a county, city, town or municipality to levy taxes or licenses on oil refining facilities located therein or on the suppliers of services or goods not including oil or gas to those

persons engaging in the business of producing, treating, processing, owning, selling, buying, storing, marketing or transporting such oil or gas. Any person who is a royalty owner shall be exempt from the payment of any increase in taxes herein levied and shall not be liable therefor.

“(e) In all cases of production of oil from unit operations as authorized and approved by the state oil and gas board of Alabama, for purposes of computing the per well production aforesaid, the aggregate production of oil from the entire unit shall be divided by the number of wells within the unit, including injection, disposal and other wells utilized in unit operations, and the quotient thereof shall be deemed and declared to be the number of barrels of oil produced from each well in such unit regardless of the actual amount of oil per day produced from the well, if any.”

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-709

H. 962—Langford, Wyatt, Dixon, McKee

### AN ACT

Relating to the City of Montgomery in Montgomery County; to authorize the City of Montgomery to declare noxious or dangerous weeds growing upon the streets or sidewalks, or upon private property within such city, to be a public nuisance; to abate or cause to be abated the same; and, to create a lien upon the property fronting upon such streets or sidewalks or upon which such nuisance exists for the cost of abating same.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall only apply to the City of Montgomery in Montgomery County, Alabama.

**Section 2.** All weeds growing upon the streets or sidewalks or upon private property within the City of Montgomery, which bear seeds of a wingy or downy nature or attain such a large growth as to become a nuisance or a fire menace when dry, or which are otherwise noxious or dangerous may be declared to be a public nuisance by the governing body of the city, and thereafter abated as hereinafter provided.

**Section 3.** Whenever any such weeds are growing upon any

street or sidewalk or private property the governing body may, by resolution, declare the same to be a public nuisance and order its abatement. Said resolution shall refer to the street by the name under which it is commonly known, and describe the property upon which or in front of which said nuisance exists by giving a legal description thereof; and no other description of said property shall be required. Any number of streets, sidewalks or parcels of private property, may be included in one and the same resolution.

Notice of said hearing shall be given by certified mail, return receipt requested, mailed thirty (30) days prior to the date of said hearing and shall inform the owner of the time, date and place of said hearing and reason therefor. Said notice shall be mailed to the owner of said property as same appears of record in the tax assessor's office for Montgomery County.

All notices shall carry a list of names of persons and companies who perform such work that may be registered with the clerk. Such names shall not constitute a recommendation and the failure to include such a list shall in no wise affect the operation of this statute.

Notice shall also be given by publication in a newspaper normally read by all segments of the population published in Montgomery County once a week for two consecutive weeks, or if no newspaper is published in Montgomery County, notice shall be given by radio or television. The first notice shall be published at least fourteen (14) days prior to the date of the scheduled hearing.

In addition thereto, two (2) signs shall be conspicuously posted on said property. The wording of said signs shall be in substantially the following form:

#### NOTICE TO DESTROY WEEDS

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ AM/PM in the Council Chamber of the Council of the City of Montgomery will consider a resolution regarding the weeds growing upon or in front of the property on \_\_\_\_\_ Street, in the City of Montgomery, and more particularly described in said resolution, a copy of which is on file in the office of the City Clerk; and at that time and place will determine whether the same constitutes a public nuisance which must be abated by the removal of said noxious or dangerous weeds; and, if so, will order the abatement and removal of said nuisance, in which case the cost of such abatement and removal shall be assessed upon the lots and lands from which or in front of which such weeds are removed, and

such cost will constitute a lien upon such lots or lands until paid.

If no objections are filed with the Clerk at least five (5) days before the meeting of said Council and unless such person appears before the Council in person or through his or her representative to show cause, if any, why his or her objection should be sustained, it shall be presumed that the person accepts the notice as fact and waives any rights he or she may have to contest the removal of said weeds and the action of the Council shall be final unless good and sufficient cause can be otherwise shown.

Reference is hereby made to said resolution, on file in the office of the City Clerk, for further particulars.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Name of City

By: \_\_\_\_\_  
City Clerk

Said notice shall be posted at least seven (7) days prior to the time for hearing objections by the governing body of the municipality.

**Section 4.** If objections are filed, at the time stated in said notice, the Council of the City of Montgomery shall hear and consider all evidence, objections and protests, in regard to whether or not the weeds on said lot constitute a public nuisance and whether same should be ordered removed or abated. The Council may continue the hearing from time to time. Upon the conclusion of said hearing, the Council, by resolution, shall decide whether a public nuisance exists and, if so, shall order it to be removed or abated with respect to any property or part thereof described. The governing body, by passage of said resolution, shall be deemed to have acquired jurisdiction to proceed and perform or have performed the work of removal or abatement with respect to such property or part thereof, and the decision of the governing body on the matter shall be deemed final and conclusive.

**Section 5.** After the Council passes the resolution finding the conditions of the property to be a nuisance and ordering its abatement, the city shall be deemed to have acquired jurisdiction to remove and abate or have removed and abated the nuisances complained of. All employees and duly authorized agents of the city are hereby expressly authorized to enter upon private property for that purpose.

The city may at its option authorize private contractors, companies, enterprises or individuals to abate and remove said



nuisances. The Council, by resolution, shall designate the contractors, companies, enterprises or individuals who may perform said work. Those persons so designated are hereby authorized to enter upon private property for purposes of abating or removing said nuisances. For purposes of this statute compliance with the competitive bid law is not required.

Any property owner shall have the right to have any such weeds removed at his own expense providing the same is done prior to the commencing of the work by the employees or agents of said municipality to do the same.

**Section 6.** The City of Montgomery shall keep an account of the cost of abating or removing such nuisances in front of or on each separate lot or parcel of land where the work is done by it or its employees, or by a duly authorized private contractor, company, enterprise or individual, and shall render an itemized report in writing to the governing body of the city showing the cost of removing said nuisance on each separate lot, or in front thereof, or both; provided, that before said report is submitted to said governing body, a copy of the same shall be posted for at least five (5) days prior thereto on or near the chamber door of said governing body, together with a notice of the time when said report shall be submitted to the governing body for confirmation.

**Section 7.** At the time fixed for receiving and considering said report, the governing body shall hear the same, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating said nuisance and thereupon the Council shall make such modifications in the report as they deem necessary, after which, by resolution, the Council shall confirm said report. The amounts of the cost for abating such nuisance in front of or upon the various parcels of land mentioned in said report shall constitute special assessments against the respective parcels of land and as thus made and confirmed shall constitute a lien on said property for the amount of such assessments, respectively. After confirmation of said report, a copy shall be turned over to the appropriate official or employee of the city who is charged with the collection of taxes or assessments, whereupon it shall be the duty of said official or employee to add the amounts of the respective assessments to the next regular bills for taxes levied against the said respective lots and parcels of land for municipal purposes, and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

**Section 8.** All resolutions authorizing abatement or removal of nuisances enacted prior to the passage of this act under the authority of any other act are hereby given full force and effect and the city may proceed to have said nuisances removed or abated by either the city or by a duly authorized private contractor, company, enterprise or individual. The procedure for confirming the account report shall be in accord with the provisions of this act.

All account reports previously confirmed prior to the enactment of this act are hereby given full force and effect and the city may proceed to collect these special assessments in the same manner as provided by prior law.

**Section 9.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 10.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-710

H. 971—Harvey

### AN ACT

To authorize the Blount County Commission to establish and maintain a contingent fund to be used for such purposes as the county commission deems appropriate; and to prescribe the maximum amount that may be appropriated for such fund in the fiscal year ending September 30, 1980 and in subsequent fiscal years.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Blount County Commission is hereby authorized to appropriate at its discretion from the county general fund an amount not exceeding \$600.00 for the fiscal year ending September 30, 1980, for a contingent fund to be used for such purposes as the commission may deem appropriate, and thereafter to appropriate annually from the county general fund an amount not exceeding \$1,200.00 to said contingent fund to be used for such purposes as the commission may deem appropriate.

Any funds appropriated for a fiscal year which remain unexpended at the end of such fiscal year shall revert to the county general fund.

**Section 2.** All laws or parts of laws which conflict with this

act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-711

H. 1011—Cooley, Bowling

### AN ACT

To amend Act No. 895, S. 775, Regular Session 1978 (Acts of Alabama 1978, p. 1332), providing for the salaries of certain county officers of Cullman County, so as to further provide that such salaries shall be in lieu of all other compensation, expense allowances, fees, commissions, percentages or other emolument of any nature whatsoever. Provided, however, said officers shall continue to receive additional compensation granted by certain portions of Acts of previous legislative sessions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 895, S. 775, Regular Session 1978 (Acts of Alabama 1978, p. 1332), is hereby amended to read as follows:

“Section 1. The following officers of Cullman County shall receive the following annual salaries in lieu of all other compensation (‘compensation’ for purposes of this Act shall mean any compensation, expense allowances, fees, commissions, percentages or other emoluments of any nature whatsoever):

“(a) Sheriff	\$19,000
“(b) Probate Judge	\$18,500
“(c) Chairman, County Commission	\$18,500
“(d) Associate Commissioners	\$ 7,250
“(e) Tax Assessor	\$16,500
“(f) Tax Collector	\$16,500
“(g) Coroner	\$ 4,500
“(h) Clerk of the Circuit Court	Such annual amount as is payable by the state as esta- blished under the general laws of the state in § 12-17-92(a), Code of Alabama 1975.

"Provided, however, the above officers shall continue to receive any additional expense allowances granted by Acts of the 1978 and 1979 legislative sessions and as hereinafter provided."

**Section 2.** The provisions of Section 1 herein shall be retroactive to May 1, 1978.

**Section 3.** From the effective date of this Act the following officers shall also continue to receive the following portions of previously authorized annual expense allowances in addition to the compensation and allowances herein authorized by Section 1 which shall be paid in equal monthly installments from the County General Fund:

(a) Sheriff	\$3,000
(b) Probate Judge	\$3,000
(c) Associate County Commissioners	\$3,000
(d) Coroner	\$1,000

**Section 4.** The Revenue Commissioner shall receive an annual expense allowance which shall be in addition to any other compensation heretofore authorized in the amount of \$3,000 which shall be paid from the County General Fund in equal monthly installments.

**Section 5. Repealer.** All laws or parts of laws which conflict with this Act are repealed.

**Section 6. Severability.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-712

H. 1026—Hines

### AN ACT

To allow prospective jurors in capital cases to be excused without the presence of the defendant in the Twenty-first Judicial Circuit of Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In all capital cases where trial by jury is held before the Circuit Court in the Twenty-first Judicial Circuit of Alabama, the judge presiding over the empanelment of the jury venire in said capital case is authorized to excuse any prospective juror outside the presence of the defendant provided said juror has a legal excuse for being excused and it shall be within the discretion of the judge to determine whether said prospective juror's excuse is legal; provided that in no case shall there be a smaller number of jurors to select from in said capital case than provided by statutes not in force and effect.

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-713

H. 1027—Hines

### AN ACT

Relating to Escambia County; to further provide for the compensation of the board of registrars.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each member of the board of registrars of Escambia County shall be entitled to receive additional compensation in the amount of ten dollars (\$10.00) per day, payable out of the general fund of the county treasury. Such amount shall be in addition to any and all other amounts provided for by law and shall be paid only for those days the board is authorized to meet and conduct business.

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed, and Act No. 595, H. 992, Regular Session 1965, approved August 26, 1965 (Acts of Alabama 1965, p. 1115), is hereby expressly repealed.

**Section 3.** The provisions of this Act are severable. If any

part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-714

H. 1028—Hines

### AN ACT

To amend Section 1 of Act No. 594, H. 991, Regular Session 1965 (Acts of Alabama 1965, p. 1115), so as to further provide for the compensation of the Escambia County board of equalization.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 594, H. 991, Regular Session 1965 (Acts of Alabama 1965, p. 1115), is hereby amended to read as follows:

“Section 1. The chairman and each member of the county board of equalization of Escambia County shall receive \$30 per day for each day's attendance upon the sessions of the board. Any amount in excess of that amount paid by the state as provided by Sections 40-3-7 and 40-3-8 of the Code of Alabama 1975, as amended, shall be paid out of the general fund of the county.”

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-715

H. 1029—Hines

### AN ACT

Relating to Escambia County; providing further for the compensation of the chairman and members of the county commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Escambia County, the chairman and members of the county commission are each hereby entitled to an expense allowance of \$2,000.00 per year. Said expense allowance shall be in addition to any and all other salary, compensation or expense allowance heretofore provided by law and shall be payable from the general fund of the county.

**Section 2.** In addition to the expense allowance provided for in Section 1 of this act, effective at the beginning of their next term of office, the chairman of the county commission is hereby entitled to receive a salary of \$16,000.00 per year and the members of the county commission shall each be entitled to receive salaries of \$10,000.00 per year. The salaries provided for in this section shall be payable from the general fund of the county.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-716

H. 1030—Hines

### AN ACT

Relating to Escambia County; to provide for an expense allowance for the sheriff of the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The sheriff of Escambia County shall receive an expense allowance of \$200.00 per month to cover expenses incurred by him in and about the performance of his duties as such officer. This allowance shall be in addition to any salary or allowance now allowed to him by law, and shall be paid to him monthly from the general funds of the county.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-717

H. 1073—Warren, McCorquodale

## AN ACT

Relating to Monroe County; amending Act No. 686, H. 1677, 1975 Regular Session (Acts 1975, p. 1437) entitled "An Act Relating to Monroe County; to authorize the tax assessor to hire clerical employees; to provide a clerk hire allowance for the tax assessor and to repeal Act No. 1831, H. 2480, Regular Session of the Legislature 1971 (Acts 1971, p. 2996), and other conflicting laws, so as to increase said allowance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 686, H. 1677, 1975 Regular Session, (Acts 1975, p. 1437) is hereby amended to read as follows:

"Section 1. The tax assessor of Monroe County is hereby authorized and empowered to hire the number of clerical employees necessary to efficiently staff the office. The county commission or other like governing body of said county shall fix the tax assessor's clerk hire allowance at a figure not to exceed \$13,200.00 per year, payable out of the general fund of the county."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-718

H. 1074—Warren, McCorquodale

## AN ACT

Relating to Monroe County; amending Act No. 682, H. 1673, 1975 Regular Session (Acts 1975, p. 1435) entitled "An Act Relating to Monroe County; to authorize the tax collector to hire clerical employees; to provide a clerk hire allowance for the tax collector and to repeal Act No. 1828, H. 2477, Regular Session of the Legislature 1971 (Acts 1971, p. 2995), and other conflicting laws," so as to increase said allowance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 682, H. 1673, 1975 Regular Session, (Acts 1975, p. 1435) is hereby amended to read as follows:

"Section 1. The tax collector of Monroe County is hereby authorized and empowered to hire the number of clerical employees necessary to efficiently staff the office. The county commission or other like governing body of said county shall fix the tax collector's clerk hire allowance at a figure not to exceed \$13,200.00 per year, payable out of the general fund of the county."



**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-719

H. 1087—Minus

### AN ACT

Relating to Sumter County to levy and collect special county privilege license and excise taxes paralleling the state sales and use taxes provided for in Chapter 23 of Title 40, Code of Alabama 1975, as amended; providing for the collection and enforcement of such taxes by the state revenue department; providing for the distribution and use of the proceeds; providing penalties for violations of this act; and providing that the terms of this act shall not become effective unless approved by the electors of Sumter County at a referendum election held for such purpose.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Definitions.** The following words, terms and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

“County” means Sumter County in the State of Alabama.

“Commissioner” means the commissioner of revenue of the state.

“State Department of Revenue” means the department of revenue of the state.

“State” means the State of Alabama.

“State Sales Tax Statutes” means Division 1 of Article 1 of Chapter 23 of Title 40 of the Code of Alabama of 1975, as amended, including all other statutes of the state which expressly set forth any exemptions from the computation of the taxes levied in said Division 1 and all other statutes which expressly apply to, or purport to affect, the administration of said Division 1 and the incidence and collection of the taxes imposed therein.

“State Sales Tax” means the tax or taxes imposed by the State Sales Tax Statutes.

“State Use Tax Statutes” means Article 2 of Chapter 23 of Title 40 of the Code of Alabama of 1975, as amended, including all other statutes of the state which expressly set forth any exemptions from

the computation of the tax levied in the said Article 2 and all other statutes of the state which expressly apply to or purport to affect the administration of the said Article 2 and the incidence and collection of taxes imposed therein.

“State Use Tax” means the tax or taxes imposed by the State Use Tax Statutes.

“Registered Seller” means the person registered with the state department of revenue pursuant to the State Use Tax Statutes or licensed under the State Sales Tax Statutes.

“Month” means a calendar month.

“Quarterly Period” means the period of three months ending on the last day of each March, June, September and December.

“Fiscal Year” means the period commencing on October 1 of each calendar year and ending on September 30 of the next succeeding calendar year.

Except where another meaning is clearly indicated by the context, all definitions set forth in the State Sales Tax Statutes and the State Use Tax Statutes shall be effective as definitions of the words, terms and phrases used in this act. All words, terms and phrases used herein, other than those hereinabove specifically defined, shall have the respective meanings ascribed to them in the State Sales Tax Statutes and the State Use Tax Statutes and shall have the same scope and effect that the same words, terms and phrases have where used in the State Sales Tax Statutes and the State Use Tax Statutes.

**Section 2. Levy of Sales Tax.** There is hereby levied in Sumter County, in addition to all other taxes of every kind now imposed by law, and to collect as herein provided, a privilege or license tax on account of the business activities and in the amount to be determined by the application of rates against gross sales or gross receipts, as the case may be, as follows:

(a) Upon every person, firm or corporation (including the State of Alabama and its alcoholic beverage control board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, any association or other agency or instrumentality of such institutions) engaged or continuing within the county in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however,

bonds or other evidences of debts or stock, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, ships and other watercraft of over 50 tons burden) an amount of one percent of the gross proceeds of sales of the business, except where different amount is expressly provided herein; provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business; and provided further, that where any used part of an automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part, the tax levied herein shall be paid is the net difference, that is, the price of the new or used part sold less the credit for the used part taken in trade, provided however, that this provision shall not be construed to include tires or batteries;

(b) upon every person, firm or corporation engaged or continuing within the county in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theatres, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution within this state, or any athletic association be denominational, a state, county or municipal institution or association or a state, county or city school, or other institution, association, or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged including public bathing places, public dance halls of every kind and description within the county, an amount of one percent of the gross receipts of any such business;

(c) upon every person, firm or corporation engaged or continuing within the county in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property an amount of three-eighths of one percent of the gross proceeds of the sale of such machines; provided that the term "machine" as herein used shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal

property and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used;

(d) upon every person, firm or corporation engaged or continuing within the county in the business of selling at retail any automotive vehicle, truck, trailer, semi-trailer or house trailer, an amount of three-eighths of one percent of the gross proceeds of sale of said automotive vehicle, truck, trailer, semi-trailer or house trailer; provided, however, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle or truck, trailer, semi-trailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee of one dollar and twenty-five cents (\$1.25) per year or part thereof during which such automotive vehicle, truck, trailer, semi-trailer or house trailer shall remain the property of such person; provided, that each such year or part thereof shall be deemed to begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the twelve succeeding months or part thereof during which such automotive vehicle, truck, trailer, semi-trailer or house trailer shall remain the property of such person; and provided further, that where any used automotive vehicle, truck, trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference; that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade; and

(e) upon every person, firm or corporation engaged or continuing within the county in the business of selling, through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, an amount of three-eighths of one percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection (e) shall be the gross proceeds of sales of such business.

There are exempted, however, from the provisions of this section and from the computation of the amount of the taxes authorized to be imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the state sales tax statutes from the computation of the amount of the state sales tax.

**Section 3. Levy of Use Tax.** There is hereby levied and

imposed an excise tax on the storage, use or other consumption of property in Sumter County as hereinafter provided in this section:

(a) An excise tax is hereby levied and imposed on the storage, use or other consumption in the county of tangible personal property (not including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships and other watercraft of more than 50 tons burden) purchased at retail on or after the effective date of such tax, for the storage, use or other consumption in the county on or after the effective date of such tax, at the rate of one percent of the sale price of such property, except as provided in subsection (b), (c) and (d) of this section;

(b) an excise tax is hereby levied and imposed on the storage, use or other consumption in the county of any machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property purchased at retail on or after the effective date of such tax for storage, use or other consumption in the county, at the rate of three-eighths of one percent of the sales price of any such machine; provided, that the term "machine," as used herein shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and are customarily so used;

(c) an excise tax is hereby levied and imposed on the storage, use or other consumption in the county of any automotive vehicle, truck, trailer, semi-trailer or house trailer purchased at retail on or after the effective date of such tax for storage, use or other consumption in the county at the rate of three-eighths of one percent of the sales price of such automotive vehicle, truck, trailer, semi-trailer or house trailer; provided, that where any used automotive vehicle, truck, trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax herein levied shall be paid on the net difference that is the price of the new or used vehicle sold less the credit for the used vehicle taken in trade; and

(d) an excise tax is hereby levied and imposed on the classes of tangible personal property, and at the rate authorized to be imposed on such classes, specified in subsections (a), (b) or (c) of this section, on the storage, use or other consumption in the performance of a contract in the county of any such tangible personal property, new or used, the tax to be measured by the sales price or the fair and reasonable market value of such tangible personal property when put into use in the county, whichever is less;

provided, however, the tax imposed by this subsection shall not apply where the taxes imposed by subsections (a), (b) and (c) of this section apply.

There are exempted from the provisions of this section, and from the taxes imposed by this section, the storage, use or other consumption of property the storage, use or other consumption of which is presently exempted under the state use tax statutes from the state use tax. Subject to those exemptions, every person storing or using or otherwise consuming in the county tangible personal property purchased at retail on or after the effective date of such taxes shall be liable for the taxes imposed by this section, and the liability shall not be extinguished until the tax has been paid by such person; provided, however, that a receipt from a registered seller given pursuant to Section 6 of this act to the purchaser of any property to be used, stored or consumed in the county shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer.

**Section 4. Payment of Taxes Herein Levied; Reports by Taxpayers.** The sales taxes levied in Section 2 hereof shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues; and the use taxes levied in Section 3 hereof shall be due and payable quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use or other consumption of the tangible personal property became taxable hereunder each such quarterly period to end on the last day of each of the months of March, June, September and December. The sale taxes levied in Section 2 of this act shall be paid to and collected by the state department of revenue at the same time as and along with the payment and collection of the state sales tax; and the use taxes levied in Section 3 of this act shall be paid to and collected by the state department of revenue at the same time as and along with the payment and collection of the state use tax. On or prior to the due dates of the taxes herein levied, each person subject to such taxes shall file with the state department of revenue a report or return in such form as may be prescribed by the said department, setting forth, with respect to all sales and business that are required to be used as a measure of the sales taxes herein levied, a correct statement of the gross proceeds of all such taxes and the gross receipts of all such business, and setting forth, with respect to the use taxes levied herein the total sales price of all property, the use, storage or other consumption of which became subject to the said taxes during the then preceding quarterly period. Such report shall include all such other items of information pertinent to the said taxes and the amount thereof as the state department of revenue

may require. Any person subject to the sales taxes levied herein may defer reporting credit sales until after their collection, and in the event he so defers reporting them, he shall thereafter include in each monthly report all credit collections made during the month preceding and shall pay the taxes due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the governing body of the county or its designated agent at reasonable times during business hours.

**Section 5. Sales Tax to be Added to Sales Price or Admission Fee.** Each person engaging or continuing within the county in a business subject to the sales taxes levied in Section 2 hereof shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said taxes. It shall be unlawful for any person subject to the sales taxes levied in the said Section 2 to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or the person paying the admission fee the amount herein required to be so added to the sales or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said taxes to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said taxes or any portion thereof.

**Section 6. Special Provisions Respecting Payment of Use Tax; Receipts and Returns by Registered Sellers.** Every registered seller making sales of tangible personal property for storage, use or other consumption in the county (which storage, use or other consumption is not exempted from the use taxes herein levied) shall at the time of making such sale, or if the storage, use or other consumption of such tangible personal property in the county is not then subject to the taxes herein levied, at the time such storage, use or other consumption becomes subject to the taxes herein levied, collect the tax from the purchases and shall give to the purchaser a receipt therefor in the manner and form prescribed by the state department of revenue. On the twentieth day of the month next succeeding following the close of each quarterly period, each registered seller shall file with the state department of revenue a return for the then preceding quarterly period in such form as may be prescribed by the state department of revenue showing the total sales price of the tangible personal property sold by such registered seller, the storage, use or other consumption of which became subject to the use taxes herein imposed, during the then preceding quarterly period; and each return shall be accompanied by a remittance of the amount of the

use taxes required to be collected by such registered seller during the period covered by the return; provided that any registered seller may defer collecting the taxes with respect to credit sales until collection of the proceeds do such sales and may defer reporting credit sales until after their collection, but shall thereafter collect the said taxes along with collection of said credit sales, shall include in each quarterly report all credit collections made during the preceding quarterly period and shall remit the taxes with respect thereto at the time of filing such report or return. Any person who has paid to a registered seller the tax with respect to the use, storage or other consumption of tangible personal property in the county need not file a report or make any further payment of the said tax, but each person who purchases tangible personal property the storage, use or other consumption of which is subject to the use taxes imposed herein, and who has not paid the said use taxes due with respect thereto to a registered seller, shall report and pay said use taxes as required by Section 4 hereof. It shall be unlawful for any registered seller to fail or refuse to add to the sales price and to collect from the purchaser the amount of the use taxes imposed herein or to refund or offer to refund or absorb, or to advertise directly or indirectly, the absorption of said use taxes or any portion thereof.

**Section 7. Enforcement of This Act; Civil Suit; Taxes a Lien.** The taxes imposed by this act shall constitute a debt due the county and may be collected by civil suit, in addition to all other methods provided by law and in this Act. The said taxes, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said taxes are due or who is required to collect said taxes. All the provisions of the revenue laws of the state which apply to the enforcement of liens for license taxes due the state shall apply fully to the collection of the taxes herein levied, and the state department of revenue, for the use and benefit of the county as hereinafter specified, shall collect such taxes and enforce this Act and shall have and exercise for such collection and enforcement all rights and remedies that the state department of revenue has for collection of the State Sales Tax and the State Use Tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the taxes levied by this act and otherwise to enforce the provisions of this Act, including the institution, prosecution and defense of any litigation involving this Act; and the said department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the taxes collected by it hereunder.

**Section 8. Applicability of State Sales and Use Tax Statutes.**



All provisions of the State Sales Tax Statutes with respect to payment assessment and collection of the State Sales Tax, making of monthly reports and keeping and preserving records with respect thereto, interest after the due date of said tax, penalties for failure to pay the said tax, make reports or otherwise comply with the State Sales Tax Statutes, the promulgation of rules and regulations with respect to the State Sales Tax, and the administration and enforcement of the State Sales Tax Statutes, which are not inconsistent with the provisions of this Act, when applied to the sales taxes levied in Section 2 hereof, shall apply to the sales taxes levied in Section 2; and all provisions of the state use tax statutes with respect to payment, assessment and collection of the State Use Tax, making quarterly reports and keeping and preserving records with respect thereto, interest after the due date of the State Use Tax, penalties for failure to pay said tax, make reports or otherwise to comply with the State Use Tax Statutes, the promulgation of rules and regulations with respect to the State Use Tax and the administration and enforcement of the State Use Tax Statutes, which are not inconsistent with the provisions of this Act, when applied to the use taxes levied in Section 3 hereof, shall apply to the use taxes in the said Section 3. The commissioner and the state department of revenue shall have and exercise the same powers, duties and obligations, with respect to the taxes herein levied, that are imposed on the commissioner and the said department by the State Sales Tax Statutes and the State Use Tax Statutes. All provisions of the State Sales Tax Statutes and the State Use Tax Statutes that are made applicable by this Act to the Taxes herein levied and to the administration of this act are incorporated herein by reference and made a part hereof as if fully set forth herein.

**Section 9. Charge of State Department of Revenue; Disposition of Tax Records.** The state department of revenue shall charge the county, for collecting the taxes levied herein, the costs of the said department in collecting the said taxes; provided such charge shall not, in any event, exceed five percent of the total amount of the taxes collected hereunder. Such charge for collecting the said taxes for the county may be deducted each month from the tax proceeds collected before the amount of the said proceeds due the county for that month is certified as provided in this section. The commissioner shall pay into the state treasury all taxes collected under this Act, as such taxes are received by the state department of revenue; and on or before the first of each successive month (commencing with the month next succeeding the month in which the said department makes the first collection of any of the taxes levied hereunder) the commissioner shall certify to the state

comptroller the amount of taxes collected under the provisions of this Act and paid by him into the state treasury for the benefit of the county during the month immediately preceding the making of such certificate and shall state separately in the said certificate the amount of the proceeds so collected from the taxes levied in Section 2 hereof and the amount of the proceeds so collected from the taxes levied in Section 3 hereof; provided, however, that before certifying the amount of taxes paid into the state treasury for the benefit of the county during each month, the commissioner may deduct from the taxes collected hereunder in said month the charges due the said department for collection of said taxes. It shall be the duty of the state comptroller (i) to issue his warrant each month, payable to the county in an amount equal to the amount so certified by the commissioner as having been collected for the use of the county, and (ii) to transmit to the county, along with the said warrant, a copy of the said certificate by the commissioner.

**Section 10.** Use of Tax Proceeds. The proceeds of any taxes herein authorized to be levied shall be paid over by the county within ten (10) days after their receipt as follows:

(a) Fifty percent (50%) shall be paid over to the county board of education,

(b) fifty percent (50%) shall be paid over to the county general fund.

(c) Provided, however, if the millage on property tax is increased, then the fifty percent (50%) earmarked for the county board of education, as provided by subsection (a) of this section, shall become null and void and the amount of tax levied by this Act shall decrease by said same amount.

**Section 11.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** This act shall be effective and operative only if it shall have been approved by a majority of the qualified electors of Sumter County who vote hereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the next primary or general election of state or county officers, or any election of any amendment to the Constitution, next following final passage of this act. Notice of the election shall be given by the judge of probate of Sumter County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots

to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law passed at the 1980 Regular Session of the Legislature which imposes a one percent sales and use tax for Sumter County the proceeds of which are divided 50% to the county board of education and 50% to the county general fund?  
Yes ( ) No ( ).”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no legal effect. The judge of probate of Sumter County shall certify the results of the election to the Secretary of State and to the State revenue department immediately after the returns have been certified.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-720

H.J.R. 285—Adams (C)

### HOUSE JOINT RESOLUTION

#### CREATING THE LEGISLATIVE JOINT INTERIM EDUCATIONAL INSTITUTIONS STUDY COMMITTEE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a legislative joint interim committee to study educational institutions which receive state money. Said committee shall be composed of three members of the House of Representatives and three members of the Senate to be appointed by the respective presiding officer of each body. The chairman and vice chairman of the committee shall be elected at the first meeting by the members of the committee. The committee shall adopt all necessary rules of procedure.

Said committee shall:

1. Examine encumbered or reserved and unencumbered or unreserved funds affecting said educational institutions,
2. examine capital outlay funds, practices and procedures affecting said educational institutions,
3. review operations and maintenance funds, practices and powers affecting said educational institutions,

4. review investment policies, procedures and performance affecting said educational institutions,
5. review purchasing practices and procedures affecting said educational institutions,
6. examine expenditures on non-academic functions by said educational institutions, and
7. review fiscal policies and procedures of said educational institutions.

Upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide clerical assistance as may be necessary for the committee's work. Additional assistance shall be provided by the Legislative Reference Service, the Legislative Fiscal Office, the Department of the Examiners of Public Accounts, the Education Study Committee or any other public board, commission, committee or agency.

Said committee shall report its findings, conclusions and recommendations to the legislature not later than the 10th legislative day of the next regular session, at which time the committee shall be abolished.

Each member of the committee shall be entitled to his regular legislative compensation, his per diem, mileage and travel expenses for each committee meeting attended. Said money shall be paid out of any fund appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman. Provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session, but they shall receive their travel expenses for all meetings attended and for any travel upon the business of the committee.

The total expenses of the committee shall not exceed \$12,000.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-721

H.J.R. 274—Sandusky

### HOUSE JOINT RESOLUTION

URGING IMMEDIATE CONGRESSIONAL ACTION TO  
PROVIDE A LEVEL OF FUNDING ADEQUATE TO THE  
NEEDS OF THE STATES FOR HIGHWAY MAINTENANCE

## AND CONSTRUCTION.

WHEREAS, though aware that the State of Alabama stands not apart from its sister states in a constant and unrelenting erosion of its economy, the Alabama Legislature from personal viewpoint is painfully knowledgeable of Alabama's pressing need of adequate funds, not only to properly maintain existing roads and highways, but also to complete vital links in our nation's interstate highway systems; and

WHEREAS, even as inflation soars, highway funding at the federal level remains the same, and totally insufficient to the needs of the states; and

WHEREAS, the Federal Highway Administration faces a shortage of funds due to a cash flow problem created by large numbers of contractor estimates coming due during the months of June and July; and

WHEREAS, Congress must approve a supplemental appropriation of \$1.4 billion in order to alleviate this cash flow problem; and

WHEREAS, the delay in approving supplemental appropriation has in turn forced Alabama to delay awarding approximately \$80 million in desperately needed construction projects which are financed primarily with federal funds; and

WHEREAS, a further stay in approving supplemental appropriation may possibly force curtailment of construction projects previously awarded and on which work is currently progressing; and

WHEREAS, until supplemental appropriation is approved, Alabama can no longer move forward on projects scheduled for highway lettings in June and July; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most strongly urge the Alabama Congressional Delegation to use every effort available to have supplemental appropriation for the Federal Highway Administration approved as quickly as possible.

BE IT FURTHER RESOLVED, That the Clerk of the House, by copy of this resolution, notify each member of the Alabama Congressional Delegation of our urgent request for expediency in federal highway supplemental appropriation to the states.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-722

H.J.R. 249—Ford

## HOUSE JOINT RESOLUTION

CREATING A JOINT INTERIM COMMITTEE TO STUDY THE NEEDS AND NECESSITIES OF OFF—CAMPUS BRANCHES OR CENTERS OF JUNIOR COLLEGES.

WHEREAS, the costs of state funding for off-campus branches and centers of junior colleges have escalated in recent years; and

WHEREAS, much controversy surrounds the extent and areas of duplication of services and curriculum to the communities and taxpayers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint interim committee to be composed of three members of the House of Representatives and three members of the Senate, appointed by the presiding officer of each house. The chairman and vice chairman of the committee shall be elected at the first meeting by the members of the committee. The committee shall study all facets relating to the costs, curriculum, duplication of curriculum within the community, needs, necessities and any other pertinent matters pertaining to off-campus branches and centers of junior colleges.

Upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's work. The committee shall report its findings, conclusions and recommendations to the legislature not later than the fifth legislative day of the 1981 Regular Session, whereupon the committee shall be dissolved. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman; provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session. The total of such expenses shall not exceed \$7500.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-723

H.J.R. 250—Carothers

## HOUSE JOINT RESOLUTION

CREATING THE JOINT INTERIM COMMITTEE TO  
STUDY NUCLEAR ENERGY ACTIVITIES.

WHEREAS, nuclear power is a part of Alabama's industry and its growth is continuing inasmuch as by the end of 1982, there will be seven (7) nuclear reactors operating in the state and a nuclear fuel fabricating plant will begin commercial operation at Prattville in 1983; and

WHEREAS, the people of the State of Alabama are concerned about nuclear power, their confidence in nuclear power being greatly reduced because of the Three Mile Island-2 series of accidents; and

WHEREAS, the Joint Interim Committee on Nuclear Energy did not complete its studies as regards to the nuclear power industry and there is a need in the state for this matter to be studied with attention focused on the results affecting the people of Alabama regarding fall-out and disposal of the radioactive by-products of nuclear fission; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a Joint Committee from both houses of the Legislature to study the effects of nuclear energy and other matters pertaining to nuclear energy in the State of Alabama.

BE IT FURTHER RESOLVED, That said Joint Committee is to be composed of nine (9) members composed of the Chairman of the House Health Committee and Chairman of the Senate Health Committee and four (4) members of the House Health Committee appointed by the Chairman and three (3) members from the Senate Health Committee to be appointed by the Chairman of the Health Committee in the Senate. This Committee shall meet within ten (10) days after final adjournment of the 1980 Regular Session of the Legislature for the purpose of organization. The responsibilities of the members should be discussed and determined at the organizational session. The Committee shall make its final report to the Legislature no later than the fifth legislative day of the 1981 Regular Session at which time the Committee shall be terminated.

The Clerk of the House and the Secretary of the Senate are directed to furnish secretarial help for the Committee and the Committee shall receive its regular mileage and per diem. There is appropriated from the funds appropriated for the use of the

Legislature the amount of seven thousand dollars (\$7,000.00) for the expense of this Committee.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-724

H. 578—Stout, Hall, Cooley, Cobb,  
Starkey, McMillan, Greer,  
Goodwin, Brakefield, Bowling,  
Letson, Rains, Penry, Shavers

### AN ACT

To amend Section 5 of Act No. 79-688, H. 540, Regular Session 1979 (Acts 1979, p. 1217), which act divests the state highway department of certain duties relating to the construction, maintenance and repair of public roads in certain counties previously known as "captive counties" and its employees therein, and which revests such duties in the respective county governing bodies, so as to authorize certain persons who are transferred from state employment to elect, at their discretion, to either be paid for their accumulated sick leave as is provided in Section 36-26-36, Code of Alabama 1975, or to transfer such amounts equal to accumulated sick leave to their respective county retirement systems if available; and to provide for the county governing body to hold such funds in trust for the options of payment or use.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 5 of Act No. 79-688, H. 540, Regular Session 1979 (Acts 1979, p. 1217) (now appearing at Section 23-1-104 of Code of Alabama 1975, 1979 Cumulative Supplement), is hereby amended to read as follows:

"Section 5. The State Highway Department shall furnish a list to each captive county with the name, position, rate of pay, and length of service of all persons who are presently employed by the State Highway Department in the respective captive county. The respective counties may employ personnel not to exceed 75% of the employees on the list furnished by the State Highway Department for the construction, repair and maintenance of county roads and bridges in accordance with personnel policy as adopted by the respective counties, the remaining employees now employed by the State Highway Department in each said county shall remain an employee of the State Highway Department subject to the regular employment practices of said department. All persons employed by each respective county shall be paid at the same rate of pay as was paid by the State Highway Department. All present and accumulated obligations due and payable to the present employees as a result of their employment with the State Highway Department shall be the obligation of the State of Alabama



including but not limited to accumulated sick leave, vacation time and retirement and any other accumulated benefits earned by the said employees, payment shall be made to the employees on or before the effective date of the act. Provided, however, that the state highway department shall pay to the respective county governing body an amount equal to one hundred percent (100%) of the value of the accumulated sick leave for the account of each employee who transfers to the captive county. Such funds shall be held in trust for the employee and shall be used to pay such employee for approved sick leave. In lieu of the funds being held in trust for future approved sick leave, the employee may elect to accept an amount equal to fifty percent (50%) of the value of the then accumulated sick leave in full settlement and payment of his accrued sick leave account. Approved sick leave shall be that leave so designated by any county merit system to which the employee may transfer, or such leave as approved by the county governing body, or the county engineer at the direction of the county governing body."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-725

H. 19—Bennett, Amari

### AN ACT

To amend Section 17-6-1 of the Code of Alabama 1975 relating to election officers so as to exclude members of a candidate's immediate family or any member of a candidate's political committee as prescribed by Section 17-22-5 of the Code of Alabama 1975 from serving as poll workers or election officials.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 17-6-1 of the Code of Alabama 1975 relating to election officers is hereby amended to read as follows:

"§ 17-6-1. The judge of probate, sheriff and clerk of the circuit court, or a majority of them, acting as an appointing board, must, not more than 20 nor less than 15 days before the holding of any election in their county, appoint from the qualified elector of the respective voting places excluding members of a candidate's immediate family to the 2nd degree of kinship by affinity or consanguinity or any member of a candidate's political committee as prescribed by Section 17-22-5 of the Code of Alabama 1975 three

inspectors and two clerks for each place of voting, and returning officer for each precinct, to act at the place of holding elections in each precinct."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-726

H. 96—Pegues, Moore

### AN ACT

To amend § 39-2-2 of the Code of Alabama 1975 to require competitive bidding on any contract for a public improvement involving an amount in excess of \$2,000.00 instead of \$500.00.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 39-2-2 of the Code of Alabama 1975, entitled "Requirements as to advertisement for sealed bids for public improvements contracts; opening of bids, effect of contracts entered into in violation of section," is hereby amended to read as follows:

Before entering into any contract for a public improvement involving an amount in excess of \$2,000.00, the awarding authority shall advertise for sealed bids once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement or undertaking or some part thereof is to be made. The awarding authority may also advertise in such other publications as it may deem advisable. Such advertisements shall state that plans and specifications for the improvement are on file in the office of the authority and shall state the time and place in which bids will be received and opened. All bids shall be opened publicly at the advertised time and place. No public improvement as defined in this chapter involving a sum in excess of \$2,000.00 shall be split into parts involving sums of \$2,000.00 or less for the purpose of evading the requirements of this section.

An awarding authority may in its discretion let contracts for public improvements involving \$2,000.00 or less with or without advertising or sealed bids.

All contracts for the construction, repair, renovation or

maintenance of public improvements entered into in violation of this section shall be null, void and violative of public policy.

**Section 2.** All laws or parts of laws which conflict with this Act are repealed.

**Section 3.** This Act shall become effective immediately upon its passage by the Legislature and approval by the Governor, or by its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.

Act No. 80-727

H. 151—Dixon, Lewis

### AN ACT

To provide for a State Parent Locator's office in the Department of Pensions and Security for the location of absent parents who fail to support their children, and to define certain duties of said office.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** As used in this act:

(a) "Absent parent" means the parent of a minor child who owes a financial obligation for the support of the minor child or a putative parent against whom a complaint has been filed.

(b) "Office" means the State Parent Locator in the Department of Pensions and Security for the location of absent parents, hereinafter created.

**Section 2.** The office of State Parent Locator for the Location of Absent Parents is hereby established, and shall perform the following duties:

(a) Assist any governmental agency or department in locating an absent parent.

(b) Coordinate any activity on a state level in a search for an absent parent.

(c) Obtain and disseminate, as hereinafter provided, any information which directly relates to the identity or location of an absent parent.

(d) Develop guidelines for coordinating activities of any governmental department, board, commission, bureau, or agency in providing information necessary for the location of absent

parents, and otherwise implementing the provisions of this act.

**Section 3.** Upon request of the office, any governmental department, board, commission, bureau, or agency in this state shall provide any information which shall assist in implementing the provisions of this act.

**Section 4.** The information which is obtained by the office shall only be available to a governmental department, board, commission, bureau, agency, or political subdivision of any state for the purposes of locating an absent parent for enforcing their liability of support.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 28, 1980

Time: 4:00 P.M.

---

Act No. 80-728

H. 179—Cabaniss

### AN ACT

To amend § 27-27-40 so that both stock and mutual insurers shall be treated equally and in the same manner, with the use of surplus notes, to prohibit the value of surplus notes to be the single standard in valuing assets.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 27-27-40, Code of Alabama 1975 is hereby amended to read as follows:

“Section 27-27-40. Loans by domestic insurers.

(a) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest at a reasonable rate per annum, which interest shall, or shall not, constitute a liability of the insurer as to its funds other than such excess of surplus, as stipulated in the agreement. No Commission or promotion expense shall be paid in connection with any such loan.

(b) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement or be the basis of any setoff, but, until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(c) Any such loan shall be subject to the Commissioner's approval. The insurer shall, in advance of the loan, file with the Commissioner a statement of the purpose of the loan and a copy of the proposed loan agreement. The loan and agreement shall be deemed approved unless, within 15 days after date of such filing, the insurer is notified of the Commissioner's disapproval and the reasons therefor. The Commissioner shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties and to other similar lenders, if any, to the insurer or that the information so filed by the insurer is inadequate.

(d) Any such loan, or substantial portion thereof, shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan shall be made, unless in advance approved by the Commissioner.

(e) This section shall not apply to any loan other than one obtained upon a written agreement that such loan is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement.

(f) The value of the surplus debenture issued under this section shall not be considered as the deciding authority for valuing the asset received for the above note, but shall only be taken into account with all other factors in determining admitted value."

**Section 2.** All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

**Section 3.** This Act shall take effect immediately upon its passage or approval by the Governor, or upon its otherwise becoming law.

Approved May 28, 1980

Time: 4:00 P.M.

---

## AN ACT

To require reimbursement to the municipality or county and state which expended public funds for the training of law enforcement officers if such officers are employed by another state, county or municipal agency within twelve months after completion of the training; establishing procedures.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In those instances in which a law enforcement officer of any municipality or county and state is employed by the State of Alabama, any county, or another municipality, within twelve months after completing the training requirements mandated by the provisions of the Peace Officers' Standards and Training Commission, Article 3, Chapter 21, Title 36, Code of Alabama, 1975, the total expense of the training, including salary paid during training, shall be reimbursed to the municipality which paid for such training. The municipality or county and state which paid for the training, shall submit an itemized, sworn statement to the new employer of the law enforcement officer and shall demand payment thereof; and may enforce collection of such obligation through civil remedies and procedures.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 28, 1980

Time: 4:00 P.M.